

N582CAR1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 E. JEAN CARROLL,

4 Plaintiff,

New York, N.Y.

5 v.

22 Civ.10016 (LAK)

6 DONALD J. TRUMP,

7 Defendant.

-----x

Jury Trial

8 May 8, 2023

9 9:10 a.m.

10 Before:

11 HON. LEWIS A. KAPLAN,

12 District Judge
and a Jury

13 APPEARANCES

14 KAPLAN HECKER & FINK LLP

15 Attorneys for Plaintiff

16 BY: ROBERTA A. KAPLAN

MICHAEL J. FERRARA

17 SHAWN G. CROWLEY

MATTHEW J. CRAIG

18 TACOPINA SEIGEL & DeOREO

19 Attorneys for Defendant

20 BY: JOSEPH TACOPINA

CHAD D. SEIGEL

21 MATTHEW G. DeOREO

22 HABBA MADAIO & ASSOCIATES, LLP

Attorneys for Defendant

23 BY: ALINA HABBA

24 MICHAEL T. MADAIO

25 W. PERRY BRANDT

Attorney for Defendant

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(Trial resumed; jury not present)

THE COURT: Good morning, everyone.

COUNSEL: Good morning, your Honor.

THE COURT: We will mark as, I believe, Court Exhibits A and B the circulation draft of the verdict form and the proposed jury instructions.

Does plaintiff have any objections to the verdict form?

MS. KAPLAN: Your Honor, my partner Mr. Matz will speak on behalf of plaintiff.

THE COURT: Okay.

MR. MATZ: Your Honor, plaintiffs have no objection to the verdict form.

THE COURT: Thank you.

Who on your side, Mr. Tacopina, should I be addressing?

MR. BRANDT: Me, your Honor.

THE COURT: Mr. Brandt.

MR. BRANDT: We have no objections to the verdict form. We have some comments on the instructions themselves, but no objection to the verdict form.

THE COURT: Thank you.

All right. We will turn to the instructions. We do this by sections. Page 1/line 1 through page 8/6.

Anything from the plaintiff?

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1 MR. MATZ: Yes, your Honor.

2 On page 5, your Honor, the first full paragraph, the
3 final sentence, where the Court defines for the jury an aspect
4 of sexual abuse. The draft as currently written states, "It
5 includes the touching of the actor by the victim, as well as
6 the touching of the victim by the actor, whether directly or
7 through clothing, and also as the emission of ejaculate by the
8 actor upon any part of the victim, clothed or unclothed."

9 We would respectfully request that the Court consider
10 deleting that final clause of that sentence which refers to the
11 emission of ejaculate, since it's not at issue in this case and
12 could potentially confuse the jury.

13 THE COURT: Thank you.

14 Mr. Brandt?

15 MR. BRANDT: We think the Court's instruction is fine
16 as is, your Honor.

17 THE COURT: But what's your response to the --

18 MR. BRANDT: Well, I think your definition was a good
19 definition, and so I think it should stand as is.

20 THE COURT: I'm going to strike the sentence or the
21 portion of the sentence on the ground indicated by Mr. Matz.

22 Anything else on that section from either side? Okay.
23 Hearing none, we will move on.

24 I think the last part that I indicated was at issue
25 previously was page 8/line 6, so page 8/line 8 through page 9.

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Plaintiff?

MR. MATZ: No objections, your Honor.

THE COURT: Mr. Brandt?

MR. BRANDT: Nothing, your Honor.

THE COURT: Thank you.

Page 10/line 1 through page 12.

Plaintiff?

MR. MATZ: Nothing, your Honor.

THE COURT: Mr. Brandt.

MR. BRANDT: Yes, your Honor.

On page 12, the third bullet point, one of the items for consideration of punitive damages is "Mr. Trump's financial condition and the impact your punitive damages award, if any, would have on Mr. Trump."

As I recollect, there has been no evidence introduced, and plaintiff has already rested, but no evidence was introduced about his financial condition.

THE COURT: Mr. Matz.

MR. MATZ: Your Honor, this is part of the standard jury instruction, and there has been substantial evidence in the case that Mr. Trump is a real estate tycoon and a former president, as well as the president of a social media company, and we believe the jury has a sufficient basis from which to form beliefs as to his financial condition.

THE COURT: In addition to which he testified in

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1 deposition that he was or could be regarded as a star, and I
2 believe that there are other references.

3 Overruled, Mr. Brandt.

4 Okay. That takes care of the battery count.

5 Page 13/line 1 through page 16/line 5.

6 Mr. Matz.

7 MR. MATZ: Yes, your Honor. We did have just one
8 proposed modification to the instructions, specifically at the
9 top of page 13, the third line on the page, the second
10 sentence, where it says, "The next set of questions and the
11 verdict form questions 6 through 10 deal with Ms. Carroll's
12 defamation claim in relation to Mr. Trump's October 12, 2022
13 statement." Because the statement as it's being given to the
14 jury in these instructions excludes portions of the original
15 statement that refer to tangential matters, like Peekaboo James
16 and all of that stuff, and because the original statement is in
17 evidence in full, we are just slightly concerned that the jury
18 may be a bit confused about the relationship between the full
19 statement and the portions that we are saying are defamatory.
20 So I would respectfully propose one very slight addition at the
21 beginning, which would be after the word "statement" at the end
22 of that sentence, it would say "specifically, the portions of
23 that statement either about or of and concerning Ms. Carroll,"
24 so that there is no confusion in their minds that this is about
25 the portions of the statement that don't have to do with her.

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1 THE COURT: Okay. Thank you.

2 Mr. Brandt.

3 MR. BRANDT: I have a problem with the phraseology "of
4 and concerning Ms. Carroll," because that's one of the things
5 the jury is supposed to find is whether the statements were of
6 and concerning her. So if there was some other way we could
7 phrase that, that would be fine.

8 MR. MATZ: Your Honor, how about the phrase "about
9 Ms. Carroll"?

10 MR. BRANDT: That's okay.

11 THE COURT: Point me to where you would like the
12 language and give me the language.

13 MR. MATZ: The court reporter probably knows it better
14 than I do at the moment.

15 THE COURT: But we're not going to do that.

16 MR. MATZ: So it's on the top of 13, at the end of the
17 first sentence of subsection D, following the word "statement,"
18 perhaps an em dash or a comma, "specifically the portions of
19 that statement about Ms. Carroll."

20 MR. BRANDT: Again, I think that's fine, your Honor.

21 THE COURT: Thank you, Mr. Brandt. I will do that.

22 Anything else with respect to this section from the
23 plaintiff?

24 MR. MATZ: No, your Honor.

25 THE COURT: Mr. Brandt.

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MR. BRANDT: No.

THE COURT: Thank you.

Page 16/line 8 through page 17/line 16.

MR. MATZ: Nothing from plaintiff, your Honor.

MR. BRANDT: And nothing from defendant.

THE COURT: Thank you.

Page 17/line 18 through page 19/line 10.

MR. MATZ: Once again, nothing from plaintiff.

MR. BRANDT: Again, your Honor, just the bullet point about Mr. Trump's financial condition, we would object on that, but I understand the Court's prior ruling.

THE COURT: Thank you. I reiterate it.

Page 19/line 12 through page 22/line 7.

MR. MATZ: No objections from plaintiff.

MR. BRANDT: Nothing, your Honor.

THE COURT: Thank you.

Page 22/line 9 through page 24/line 17.

MR. MATZ: No objection from plaintiff, your Honor.

MR. BRANDT: And, your Honor, on page -- starting on page 22 and continuing on to page 23, under the subheading 4(b) "Evidence of Sexual Assault on Other Persons," we have already briefed this in detail, but I just wanted to note, under Rule of Evidence 413(d), the evidence regarding other person is supposed to involve genital contact, and that is not in these instructions. So we would object to the instruction unless it

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1 talks about there having been touched the genitals of Ms. Leeds
2 or Ms. Stoyhoff.

3 THE COURT: Mr. Matz.

4 MR. MATZ: Your Honor, we believe the instruction is
5 properly given. Rule 104 of the Federal Rules of Evidence
6 recognized that in some statements the admissibility of
7 evidence may be conditional by the finding of a particular fact
8 by the jury. Here, the instruction makes clear that the jury
9 must find certain facts before it may consider in any way the
10 evidence concerning Ms. Stoyhoff. And in describing the facts
11 that the jury must find, it defines what the term "sexual
12 assault" means and it defines it appropriately.

13 I would note that genital contact is actually not a
14 requirement of Rule 413(d), contrary to the statement by
15 defense counsel. And the Court's instructions at the bottom of
16 page 23 and the top of page 24, both in the definition of
17 "sexual assault" and the definition of the term "attempt," are
18 consistent with the Court's opinions, which are the law of the
19 case, and they are also consistent with binding precedent that
20 defines how Rule 415 applies and Rule 413 apply in this
21 context.

22 THE COURT: Thank you.

23 Why not, Mr. Brandt?

24 MR. BRANDT: Just the reasons stated, your Honor, that
25 we have already briefed on this.

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1 THE COURT: I'm sorry. I don't understand.

2 MR. BRANDT: I'm sorry. Just, in our view, it
3 requires the touching of the genitals of either Ms. Leeds or
4 Ms. Stoyhoff.

5 THE COURT: What do you do with the word "attempt"?

6 MR. BRANDT: Well, again, there is no evidence of
7 attempt.

8 THE COURT: Overruled.

9 Page 24/line 20 through page 25/line 4.

10 MR. MATZ: No objection, your Honor.

11 MR. BRANDT: And your Honor, we also object to this
12 section about the *Law & Order* exhibit and testimony. This was
13 the subject of briefing over the weekend. We think the exhibit
14 CK, Defendant's Exhibit CK was admitted without objection and
15 is in for all purposes and can be used on that basis.

16 THE COURT: Well, I read the briefing over the
17 weekend; and, Mr. Brandt, I know that you certainly didn't
18 write it, and I'm not asking who did, but the assertions that
19 were made on behalf of the defendant in that briefing, I
20 conclude, took some liberties with the record, and specifically
21 this. When Mr. Tacopina, on cross-examination of Ms. Carroll,
22 first began to refer to a *Law & Order* episode, there was an
23 objection from the plaintiff, and I brought counsel to the
24 sidebar.

25 I asked Mr. Tacopina what was going on, in other

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1 words, why are we talking about a TV show, or words to that
2 effect, and here's what he said: "What is going on, your
3 Honor, is two things. There is an e-mail about the -- I was
4 going to inquire about regarding the TV show *Law & Order*. It
5 is relevant for the reasons I will explain. The second before
6 I did that, I was just asking if she had any independent
7 knowledge of the show. *Law & Order* in 2012 did a TV show in
8 which the episode featured a woman getting raped in the
9 Bergdorf Goodman lingerie dressing room in 2012. Ms. Carroll
10 received an e-mail, responded to an e-mail from someone saying
11 that you should be aware that there is this *Law & Order* episode
12 from 2012." It is Mr. Tacopina speaking.

13 I asked when the *Law & Order* episode aired.

14 Mr. Tacopina replied: "2012 originally, and there may
15 have been repeats."

16 Mr. Seigel, on behalf of the defendant, interjected
17 that it was on repeats.

18 So then we get to the important part. Mr. Tacopina
19 said the following: "So this lady is just telling her" --
20 referring to the lady who had written the e-mail to
21 Ms. Carroll, and the e-mail we are talking about is one of two
22 messages contained in Exhibit, I believe it is CK. "So this
23 lady is just telling her"—referring to Ms. Carroll—"that this
24 aired in 2012 and had a character talking about being raped in
25 a Bergdorf Goodman lingerie dressing room. Ms. Carroll replied

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1 saying, I hadn't seen it, but this happens all the time with
2 *Law & Order* stories, which indicates that she watches
3 *Law & Order*. Also, there are 200 scripted shows a year on TV.
4 This kind of thing is bound to show up. Indeed, I'm surprised
5 this plot is not seen more often."

6 Still continuing quoting Mr. Tacopina, "So we are
7 offering that obviously."

8 I said, "Okay."

9 Mr. Tacopina then said—and this is what is not
10 referred to at all in the defendant's briefing over the
11 weekend—"not for the truth, but for her response. That is
12 relevant."

13 And I said: "I get it. What's the objection?"

14 And Mr. Ferrara for the plaintiff essentially said, We
15 think under 402, which is relevance, and 403, undue prejudice,
16 it should be kept out.

17 And I said, "No, I will allow it."

18 That was the end of the sidebar.

19 So the matter was left at the end of the sidebar that
20 the plaintiff wanted to offer this e-mail exchange not for the
21 truth of what was said in the e-mail by the person who
22 initiated the communication with Ms. Carroll, but only for
23 Ms. Carroll's response to that e-mail.

24 We then resumed testimony and Mr. Tacopina showed
25 Ms. Carroll the e-mail train, I guess is what you call it, the

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1 two e-mails on one piece of paper, and she identified it, said
2 she had seen it, said she had received it.

3 And subsequently Mr. Tacopina said, "I would offer
4 that," referring to the e-mail train, "as Defendant's Exhibit
5 CK, your Honor." and Mr. Ferrara, for the plaintiff, said, "No
6 objection."

7 Now, why was there no objection? There was no
8 objection because there was no hearsay objection to be made
9 because Mr. Tacopina had represented at the sidebar that the
10 e-mail exchange was being offered not for the truth of the
11 matter stated, but only for the purpose of showing
12 Ms. Carroll's response to the first e-mail. That being the
13 case, there was no occasion to object, the relevancy objection
14 had been overruled at sidebar, and we proceeded.

15 In light of that history, I overrule the objection to
16 page 24/lines 20 to page 25/line 4, and it would have been
17 helpful if, in making the briefing over the weekend, the
18 plaintiffs had seen fit to acknowledge in the letter that the
19 document had been offered not for its truth, rather than
20 telling me that the document had been received for all
21 purposes, which is manifestly incorrect.

22 MS. KAPLAN: Point of clarification, your Honor. For
23 the transcript, I think you said the "plaintiffs" there and you
24 meant the "defendants."

25 THE COURT: Where?

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1 MS. KAPLAN: In the statement you just stated about
2 what you would have wanted to see in the letter.

3 THE COURT: You are correct. I have now looked at the
4 transcript, and where I said the plaintiffs have seen fit to
5 acknowledge in the letter, that should say "the defendant."

6 That reminds me of another transcript correction,
7 going back days, having to do with the fact that I made a
8 reference days ago to a work by Jonathan Swift, and I said that
9 it was a publication several hundred years ago, and the record
10 says 700 years ago, and I said several.

11 MR. MATZ: No objection, your Honor.

12 THE COURT: Okay. Thank you. I'm sure my English
13 literature teacher in high school rests more comfortably
14 wherever she may be.

15 Page 25/line 6 through page 27/line 17.

16 Plaintiff?

17 MR. MATZ: No objection, your Honor.

18 THE COURT: Defendant?

19 MR. BRANDT: No objection, your Honor.

20 THE COURT: Page 27/line 19 through the end of the
21 circulation draft.

22 Plaintiff?

23 MR. MATZ: No objections, your Honor.

24 THE COURT: Mr. Brandt?

25 MR. BRANDT: No objection, your Honor.

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1 THE COURT: Okay. Thank you all for being prepared
2 and doing this efficiently.

3 Is there anything else that can usefully be
4 accomplished before the jury is ready to go?

5 MS. KAPLAN: Not from plaintiff, your Honor.

6 MR. BRANDT: Not from defendant.

7 THE COURT: Okay. I thank you, and I will see you
8 when we have a jury ready to go.

9 (Recess)

10 THE COURT: Good morning again. Let's bring in the
11 jury.

12 (Continued on next page)

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1 (Jury present)

2 THE COURT: Good morning, everyone. I hope you
3 enjoyed this beautiful weekend, and good for you for being on
4 time because that enables us to move forward even a little
5 ahead of schedule.

6 Before I turn it over to the lawyers, let me just tell
7 you a little bit about the schedule. You are going to hear
8 closing arguments now from both sides. The plaintiff goes
9 first, the defendant goes second, and the plaintiff has an
10 opportunity for a comparatively short rebuttal.

11 I anticipate that the plaintiff will be about two
12 hours, the defendant will be a little bit more than that, and
13 the rebuttal will be somewhere like a half hour.

14 We are going to order you lunch early because if we
15 start right now, it will probably be close to noon and we will
16 have a lunch break. We will at some convenient points during
17 the day have bathroom breaks.

18 I expect we will finish the closing arguments today,
19 and tomorrow morning first thing I will instruct you on the
20 law. It will probably take anywhere from 50 minutes to an hour
21 and ten minutes, something like that, and then you will get the
22 case to decide.

23 Now, let me just remind you of something I said much
24 earlier in the trial. You are not to discuss the case even
25 among yourselves, let alone with anybody else, until after I

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1 instruct you on the law tomorrow and tell you to retire and
2 begin your deliberations.

3 Secondly, it remains extremely important that you have
4 no contact with anything that may be in the press or on social
5 media or anything like that relating to the case or with anyone
6 on the outside at all.

7 With all of that, I'm done giving you my thoughts, and
8 we are now going to hear closing argument on behalf of
9 Ms. Carroll.

10 Ms. Kaplan.

11 MS. KAPLAN: Thank you, your Honor.

12 Good morning.

13 I want to start by mentioning something that
14 Mr. Tacopina spent quite a bit time talking about during his
15 opening argument a couple of weeks ago, the importance of our
16 justice system and the rule of law.

17 On this point, I agree completely with Mr. Tacopina.
18 In this country, even the most powerful person can be held
19 accountable in court. No one—not even a former president—is
20 above the law.

21 I agree with Mr. Tacopina that that's a big part of
22 what makes our country great. Your job is to uphold that core
23 principle, to find the facts, and reach a verdict based on the
24 evidence before you. That's all that we can or should ask you
25 to do.

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Summation - Ms. Kaplan

1 Did any of you happen to notice, though, that what
2 Mr. Trump said about that in his key October 12 defamatory
3 statement about E. Jean Carroll on Truth Social that is in as
4 Plaintiff's Exhibit 4? In that post, he actually insulted the
5 justice system. In the end, in this case, you must hold him to
6 account in this court for what he's done.

7 Now let me explain to you why.

8 The plaintiff in our case, E. Jean Carroll, is truly
9 one of a kind. Having grown up in Indiana, she pulled herself
10 up by her own bootstraps and achieved amazing success as a
11 journalist and advice columnist here in New York City. As you
12 saw for yourselves, she is smart, she is funny, she is
13 beautiful and, most of all, she is courageous. As her good
14 friend Lisa Birnbach told you from that stand, E. Jean is the
15 kind of person who puts on lipstick, dusts herself off, and
16 moves on.

17 Ms. Carroll testified here for more than two full
18 days. She described in detail what Donald Trump did. Even
19 when she was asked the most difficult and arguably offensive
20 questions, like whether having someone rummage around her
21 vagina is different from having someone insert a finger, she
22 answered them calmly and patiently.

23 But you also saw E. Jean Carroll express real emotion
24 on the stand. Those were the tears of a woman laying out the
25 most private, the most sensitive, the most difficult parts of

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1 her life, answering question after question after question
2 about why she didn't scream. You saw for yourselves. E. Jean
3 Carroll wasn't hiding anything. Her testimony was credible, it
4 was consistent, and it was powerful.

5 Now let's compare that to Donald Trump. You haven't
6 heard much from Donald Trump in this case, but what you did
7 hear supports our version of what happened. Here are two very
8 important examples.

9 First, as you know, when Ms. Carroll first came
10 forward to tell the story of how Mr. Trump assaulted her at
11 Bergdorf Goodman, he denied it by saying that he had never met
12 Ms. Carroll, he had no idea who she was, and that she "wasn't
13 his type." He repeated that claim on the social media platform
14 Truth Social in the post you just saw. He then said it again
15 when he was deposed in this case under oath, as you saw in the
16 video last week: I wouldn't have assaulted Ms. Carroll,
17 Mr. Trump insisted, because she's not my type. In other words,
18 she wasn't attractive enough for me to sexually assault.

19 But you also saw what happened when Mr. Trump was
20 shown this photograph at his deposition. Let's watch again.

21 (Video played)

22 MS. KAPLAN: What did Mr. Trump do after I showed him
23 that photograph? He looked at it for a moment, pointed to
24 Ms. Carroll and then said, completely unprompted by me, "It's
25 Marla. That's Marla, yeah. That's my wife." He was

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1 referring, of course, to his second wife, Marla Maples.

2 Just to be clear—I think we all know this—this is
3 not a photograph of Marla Maples. This is a photograph of
4 E. Jean Carroll, her then husband John Johnson, Donald Trump,
5 and Mr. Trump's first wife, Ivana Trump.

6 But Mr. Trump pointed to Ms. Carroll, the woman he
7 supposedly said was not his type, and mistook her for Marla
8 Maples. Ms. Carroll's hair-do at the type was similar in both
9 cut and color to Ms. Maples. She was exactly his type.

10 And believe it or not, he repeated it twice. He only
11 corrected himself when his own lawyer, realizing the problem it
12 created for him in this case, jumped in to tell him that he had
13 gotten it wrong. Realizing what he had done, Donald Trump then
14 did what he always does. He made up an excuse for why he made
15 the mistake. He said that the photograph was blurry. But
16 that's the photograph, ladies and gentlemen. It's the same
17 photograph I showed him in that room at Mar-a-Lago, and you
18 know for yourselves that it is not at all blurry.

19 The truth is that E. Jean Carroll, a former
20 cheerleader and Miss Indiana, was exactly Donald Trump's type.

21 What else did you hear from Donald Trump? You also
22 heard that he did almost the exact same thing he did to
23 Ms. Carroll to other women. You heard him say it in his own
24 words.

25 (Video played)

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1 MS. KAPLAN: Here is what he said: "You know, I'm
2 automatically attracted to beautiful women. I just start
3 kissing them. It's like a magnet. Just kiss. I don't even
4 wait. And when you're a star, they let you do it. You can do
5 anything. Grab them by the pussy. You can do anything. Just
6 start kissing them. Don't even wait. You can do anything.
7 Grab them by the pussy."

8 What is Donald Trump doing here? Telling you in his
9 very own words how he treats women. It's his *modus operandi*,
10 or MO.

11 You heard Jessica Leeds and you heard Natasha Stoyanoff
12 tell you how he used this exact same MO or playbook with them.
13 He kissed them without their consent. He grabbed them. He
14 didn't wait.

15 Now let's put these two things together. First we are
16 looking at the photograph -- the photograph that I showed you
17 earlier, Donald Trump confirmed that E. Jean Carroll, who was
18 then in her late forties or early fifties, was exactly his
19 type, the sort of woman he found attractive.

20 Second, on the *Access Hollywood* tape, he told you what
21 he automatically does when he sees women he finds attractive.

22 The evidence in this case establishes overwhelmingly
23 that Trump followed this same playbook when he attacked
24 Ms. Carroll at Bergdorf Goodman. He pushed her up against the
25 wall and he started kissing her. He didn't wait. He grabbed

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1 her, using his words, "by the pussy."

2 But Donald Trump went even further than that.
3 Remember how on the *Access Hollywood* tape he said that if
4 you're a star they let you do it, you can do anything? You
5 just saw that. What did Donald Trump say about that when I
6 asked him about it at his deposition? He said that for
7 millions of years unfortunately or fortunately—those are his
8 words—stars like him could get away with sexually assaulting
9 women.

10 Let's listen.

11 (Video played)

12 MS. KAPLAN: Unfortunately or fortunately? He
13 actually used the word "fortunately" to describe stars grabbing
14 women? Let that sink in for a moment. Who would say
15 "fortunately" to describe the acts of sexual assault? I know
16 who. Someone who thinks of themselves as a star, someone who
17 thinks it's a good thing that stars can grab women by the
18 pussy. That's who Donald Trump is. That is how he thinks, and
19 that is what he does. He thinks stars like him can get away
20 with it. He thinks he can get away with it here.

21 Before I get to the rest of the case, let me say one
22 more thing. You have heard from many witnesses during this
23 trial. You have heard from E. Jean Carroll herself; from
24 Ms. Carroll's two friends, Lisa Birnbach and Carol Martin; from
25 two Bergdorf Goodman employees, Cheryl Beall and Bob Salerno;

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1 from two other women sexually assaulted by Donald Trump,
2 Natasha Stoyanoff and Jessica Leeds; and from Ms. Carroll's
3 former editor and sister. Each of these nine witnesses
4 presented factual evidence that supports E. Jean Carroll. You
5 also heard from two experts—Dr. Leslie Lebowitz, who testified
6 about what happens to someone when they experience trauma; and
7 Professor Ashlee Humphreys, who testified about the damage to
8 Ms. Carroll's reputation. Even I can do this math. That adds
9 up to 11 witnesses who testified under oath in this courtroom.

10 What do they have on the other side? Donald Trump and
11 only Donald Trump. He had no fact witnesses to support any
12 part of his story, no one to back up a single thing he said.
13 And you only saw him on video. He didn't even bother to show
14 up here in person.

15 In other words, as my partner Shawn Crowley said in
16 her opening argument a couple of weeks ago, this is not a "he
17 said/she said" case. It's not what Donald Trump says versus
18 only what E. Jean Carroll says. Instead, it's what Trump says
19 versus what every single one of those 11 witnesses said when
20 they testified in that chair over there.

21 And on top of that, as I just explained, much of what
22 Donald Trump says actually supports our side of the case. In a
23 very real sense, Donald Trump here is a witness against
24 himself. And there is a very good reason for that. Donald
25 Trump knows what he did. He knows that he sexually assaulted

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Summation - Ms. Kaplan

1 E. Jean Carroll.

2 Now, as you know, Mr. Trump's lawyer made a promise to
3 you during his opening statement that he would prove that each
4 and every step in Ms. Carroll's account was totally
5 unbelievable. Turns out he wasn't able to keep that promise.

6 Let me just begin by giving you one obvious example of
7 that kind of a broken promise. I thought I would use something
8 simple like the Bergdorf Goodman dressing room doors.

9 Mr. Tacopina told you during his opening that
10 Ms. Carroll's account of the sexual assault by Donald Trump is
11 not believable because the dressing room doors at Bergdorf
12 Goodman were always closed. But you now know that that simply
13 isn't true. Both Cheryl Beall and Bob Salerno told you that it
14 was common for dressing room doors at Bergdorf Goodman to be
15 left open. You can see for yourselves on the screen what they
16 said.

17 Let's now turn to Ms. Carroll's account of what
18 happened that day in the spring of 1996, when things turned
19 from funny to tragic, as she described it. You will hear that
20 every single aspect of what she has said is backed up or
21 corroborated by other evidence.

22 Let me start with the date. There has been a lot of
23 talk in this case about the date. We can now be pretty sure
24 that the attack happened on a Thursday evening in the early
25 spring of 1996. Let me pause here for a minute. I will

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1 explain this more later, but the word "probably" is very
2 important here because it is consistent with our burden of
3 proof. All you need to find is that it is more probable than
4 not that Mr. Trump did what E. Jean said he did.

5 So how do we know it was spring of 1996? Well, first
6 of all, E. Jean Carroll knows that the assault happened on a
7 day that she was filming her E. Jean television show at the
8 America's Talking network. That network, as you heard, only
9 existed from July 1994 to July 1996. So we know for sure that
10 it has to be within those two years.

11 Next, Ms. Carroll told you that she was wearing a wool
12 dress with tights that day, but no coat. That means the
13 weather was cool enough for her to wear a warm dress, but not
14 cold enough for her to need a coat.

15 We also know that her friend Lisa Birnbach published a
16 magazine article about Donald Trump in February 1996. You see
17 it there on the right side of your screen. And we also know
18 that Ms. Birnbach never would have agreed to go down to
19 Mar-a-Lago to interview Donald Trump if Ms. Carroll had already
20 told her about the sexual assault. So that means the attack
21 must have happened after this article was published on February
22 12, 1996.

23 There is more. Lisa Birnbach also explains that when
24 E. Jean Carroll called her immediately after the attack, she
25 was giving her two young kids dinner, so it must have been

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1 between 6 and 7 p.m. And here's what's crucial. Ms. Carroll,
2 in turn, said that it was already pretty dark outside when she
3 was on Fifth Avenue calling Ms. Birnbach. It is now early May.
4 Think about when the sun set last night, think about when it
5 set a month ago, and think about when the sunset a month before
6 that. It had to have been early spring.

7 Ms. Carroll also told you that she has long suspected
8 the attack happened on a Thursday. Why Thursday? As you heard
9 from the Bergdorf Goodman witnesses, Thursday was the only day
10 when the store was open after 6 p.m. It makes sense that the
11 attack would have happened on a Thursday since, as Ms. Carroll
12 testified, she drove to the store after she finished filming
13 her TV show in Fort Lee around 5 p.m. If the store had closed
14 at its regular time the other days of 6 p.m., she wouldn't have
15 had enough time to drive to New York City, go into the store,
16 shop, come back out, meet Mr. Trump, etc.

17 Now it is true that Ms. Carroll cannot recall the
18 precise date of the attack. If it was a Thursday in the early
19 spring of 1996, there are about a handful of days that it could
20 have happened. Donald Trump wants you to think that this is a
21 huge weakness in Ms. Carroll's case, but it's not. That's
22 because when Donald Trump assaulted Ms. Carroll, she wasn't
23 thinking about the date. She was trying to come to grips with
24 the fact that she was being attacked, and she was desperately
25 trying to fight him and get away. The details of the attack

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1 itself—where it happened, how it felt—she remembers all that
2 with great detail, but she can't specify the date. You heard
3 Dr. Lebowitz talk about this during her testimony, and I'm
4 going to come back to that later.

5 Going back to her narrative, as Ms. Carroll testified,
6 after leaving work in New Jersey, she drove across the
7 GW Bridge and down to Bergdorf Goodman on 58th Street and
8 Fifth Avenue. She parked her car on 58th Street in the garage
9 and entered the store at the 58th Street entrance across the
10 park, really, from the Plaza Hotel.

11 She spent some time looking for whatever it was that
12 she had wanted to buy. She doesn't remember what it was. She
13 didn't find it, and was about to leave the store through the
14 58th Street entrance.

15 Ms. Carroll told you that just as she was leaving the
16 store, she noticed Donald Trump coming in the other way through
17 the glass doors. Trump held up his hand like this to stop her
18 and said, Hey, you're that advice lady. Ms. Carroll, E. Jean
19 Carroll, in kind, responded, Hey, you're that real estate
20 tycoon. In other words, they recognized each other.

21 Let me now talk about that.

22 Donald Trump was a familiar person in New York City at
23 this time, definitely not as famous as he is today, but he was
24 fairly well known. He was known for his real estate projects,
25 like Trump Tower, and his love life was routinely featured on

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1 the pages of New York City tabloids, so it was no surprise that
2 Ms. Carroll recognized Donald Trump. But it's also no surprise
3 that Trump recognized Ms. Carroll.

4 Bear with me. I'm going to take you through this step
5 by step.

6 First of all, you already know that Trump and Carroll
7 had met each other at least once before. You saw this
8 photograph of them and their spouses talking at a party and
9 laughing at a party in the late '80s.

10 But more importantly, remember what Donald Trump
11 called E. Jean Carroll when he ran into her? He called her
12 "that advice lady." Why would he say that? Well, Donald Trump
13 loves to watch TV. He admitted during his deposition that he
14 watched *Good Morning America* and *The Today Show*, two shows that
15 E. Jean Carroll regularly appeared on at that time. We also
16 know that Donald Trump was friends with Roger Ailes,
17 Ms. Carroll's boss at the America's Talking network.

18 During Ms. Carroll's testimony, you saw a video of
19 Roger Ailes and Donald Trump on Roger Ailes' talk show, which
20 was called *Straightforward* in November 1995. Remember that?

21 (Video played)

22 MS. KAPLAN: Okay. So how do we know this was
23 November 1995? Because in the video, Donald Trump talks about
24 being the grand marshal of a parade that took place on November
25 10, 1995, the Veterans Day parade which he admitted during his

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1 deposition. You heard that on his deposition video. And I bet
2 you were wondering when we showed you this video why in the
3 world we were showing it to you. The reason is because the
4 Ailes talk show was filmed at the very same New Jersey studio
5 where E. Jean's advice show was also filmed, and it was filmed,
6 we now know, only a few months prior to the day that Mr. Trump
7 and Ms. Carroll ran into each other at Bergdorf
8 Goodman—November, early spring. Trump may well have seen
9 E. Jean somewhere at the studio when he taped that show.

10 But that's not all. As Ms. Carroll told you, the
11 Roger Ailes show reran on TV every weeknight at midnight
12 immediately following the rerun of her show, which started at
13 11 p.m.

14 Now I'm going to have to take people back in time a
15 bit.

16 (Continued on next page)

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N585car2

Summation - Ms. Kaplan

1 MS. KAPLAN: Remember -- and I apologize for the
2 younger members of the jury life -- remember, this was the
3 mid-1990s, way before today's world of streaming, of YouTube,
4 of all that stuff. Back then, in the old days, if you wanted
5 to watch a TV show you figured out what time it ran, you put
6 the channel on to the right channel, and you waited for it to
7 start. Sometimes you might catch the last few minutes of the
8 previous show. As a result, if Donald Trump wanted to watch
9 his friend Roger Ailes' show, including the episode that he was
10 featured on, that's what he would have to do. He would have to
11 turn his TV to the America's Talking channel, wait for Roger
12 Ailes' show to start, and unless he did that at the exact right
13 moment, he would have seen the end of E. Jean's show.

14 Going back to the timeline -- that's why we know that
15 Donald J. Trump knew who E. Jean Carroll was that day. Let me
16 go back to the timeline.

17 As E. Jean Carroll explained, she and Donald Trump
18 stopped to chat just inside the 58th Street doorway of the
19 store. Mr. Trump told Ms. Carroll that he was shopping for a
20 present for a woman and he asked her as the advice columnist to
21 help him pick something out. Let's pause again to show how and
22 why the evidence confirms this.

23 As you recall, Donald Trump claimed during his
24 deposition that he almost never went to Bergdorf Goodman. This
25 is classic Donald Trump, his testimony gets stronger and

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Summation - Ms. Kaplan

1 stronger, his denials get stronger and stronger as testimony
2 goes on.

3 Let's watch.

4 (video played)

5 MS. KAPLAN: But we now know that that is not true.
6 Robert Salerno, the former Bergdorf Goodman employee testified
7 here, under oath, that he, himself, actually saw Donald Trump
8 at Bergdorf Goodman in the mid-1990s. Ms. Beall testified that
9 she once saw him right outside the store on the corner. And
10 that's not at all surprising. Remember, Bergdorf Goodman was a
11 block away from Trump Tower and only diagonally across the
12 street from the Plaza Hotel, which Donald Trump used to own.
13 It obviously makes sense that he would shop there from time to
14 time.

15 Going back to Ms. Carroll's account. E. Jean at first
16 suggested that he buy the woman a handbag, then a hat. Those
17 departments were both on the ground floor where there were only
18 a few other people, as would be typical on a Thursday after
19 6:00. You heard both Ms. Beall and Mr. Salerno testify that
20 Thursdays weren't busy and there were far fewer sales than at
21 peak times.

22 Ms. Carroll explained when she testified that a couple
23 people in the store did in fact recognize Donald Trump, one of
24 them was a sales attendant who smiled but didn't say anything
25 to them. This, too, is supported by the evidence. As

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1 Ms. Beall told you, sales attendants were trained not to say
2 anything when famous people came into the store, especially
3 when a famous man was in with a woman who was not his wife.
4 Mr. Salerno told you the staff were trained to basically ignore
5 and not pay attention to celebrities.

6 Going back to the narrative. Trump eventually said
7 that he wanted to go look at lingerie. They took the escalator
8 up to the sixth floor, Ms. Carroll testified that she didn't
9 notice anyone else as they rode up. Mr. Trump's lawyers seemed
10 fixated on this point when they questioned E. Jean Carroll.
11 They tried to make it seem like she was saying that there was
12 no one else in the whole entire store but that's not what she
13 said. She said that she and Donald Trump were so engaged in a
14 playful, funny, back and forth, that she didn't notice anyone
15 else. Maybe there were people on the other floors, maybe there
16 were people on the escalators going down, but Ms. Carroll
17 didn't notice them and that makes sense.

18 Also, as Mr. Salerno told you, there were walls around
19 the escalators at Bergdorf Goodman, meaning that you couldn't
20 see sideways out from the elevator as you went up. This
21 further explains why Ms. Carroll would not have noticed anyone
22 else as they traveled up to the sixth floor or even as she went
23 back down after the attack.

24 OK. Back to what happened. As Ms. Carroll told you,
25 she and Donald Trump rode the escalator up to the lingerie

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1 department on the sixth floor, turned left, and walked through
2 a few other sections before arriving at lingerie.

3 Ms. Carroll's description of the layout of the sixth floor is
4 completely consistent both with the architectural drawings you
5 saw -- and you have one in front of you, PX- 24 -- and with the
6 testimony of the Bergdorf witnesses. In particular -- am I
7 going to be able to trace on this, Mr. Craig or Mr. Lam?

8 In particular, Ms. Beall, whose office was on the same
9 floor over here, told you that if you were coming up the
10 elevator on the sixth floor, this is what you would have to do.
11 You would come up here, you would go around, around here, and
12 you would go in here and the lingerie department was right
13 there. That fits with Ms. Carroll's description; a left off
14 the escalator, then continue on, bearing right, until you
15 arrive at lingerie.

16 Ms. Carroll told you that she didn't see anyone on the
17 sixth floor and that the lingerie department was basically
18 empty when they got there; no customers, no sales attendants.
19 Another issue that Mr. Trump's team made a big deal out of in
20 both his opening statement and during his cross-examination of
21 Ms. Carroll, Mr. Tacopina tried to use Ms. Carroll's own words
22 to challenge the idea that the lingerie department could
23 possibly have been empty. But you and yourselves have actually
24 heard from the people who would know -- Ms. Beall and
25 Mr. Salerno. What did they say? Ms. Beall told you that on

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1 Thursday evenings, traffic in the lingerie department was very,
2 very low. Mr. Salerno told you that sales in the lingerie
3 department were less than 1 percent of Bergdorf Goodman's total
4 revenue. He added that Thursday evenings in the spring would
5 be especially slow since spring, unlike the time before
6 Christmas, was not a busy season for the store. And they both
7 explained that because there were so few shoppers on Thursdays,
8 there were also very few sales attendants. And the few sales
9 attendants who were there were not, as Trump's team seems to
10 suggest, glued to a particular place or department. They were
11 encouraged to wander around the floor to help customers, to
12 help restock, and they, of course, were allowed to take breaks.

13 Both Mr. Salerno and Ms. Beall testified that it would
14 not have been unusual for the lingerie department to have been
15 left completely unattended on a Thursday evening. Ms. Carroll
16 told you that once they got to the lingerie department,
17 Mr. Trump made his way over to the display counter and picked
18 up a see through lilac-grey bodysuit and he tossed it at
19 Ms. Carroll and told her to try it on. The fact that the body
20 suit was sitting on the counter is supported by Ms. Beall who
21 told you that items would often be displayed on tables or on
22 the top of cabinets and that there was a cabinet -- let me make
23 sure I get this right -- a cabinet or a vitrine, as she called
24 it, right there in the middle of the lingerie department as you
25 walked in. Ms. Carroll testified that after Trump tossed her

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1 the body suit, she tossed it back to him saying to him, *You try*
2 *it on, it's your color*, joking that it matched his eyes.

3 Mr. Trump's lawyers seem to have a very hard time
4 understanding what is going on here. Mr. Trump, of course, was
5 a very large man wearing a business suit. Did Ms. Carroll
6 really expect him to try on a piece of women's lingerie over
7 his suit? But I think we understand what was happening. This
8 was a combination of humor and flirting. As Ms. Carroll
9 explained, you take two opposite things, Donald Trump and a
10 piece of women's lingerie, you put them together and you get
11 comedy. It was a joke. Ms. Carroll could see the joke in her
12 mind's eye as she did what she used to be a writer at Saturday
13 Night Live. Had she worked out the technicalities of how
14 Mr. Trump was going to pull the bodysuit over his pants? Of
15 course not. That wasn't the point. The point was that it was
16 funny.

17 Tragically, ladies and gentlemen, that's when things
18 suddenly took a very, very dark turn. Mr. Trump guided
19 Ms. Carroll by her arm in the direction of the dressing room.
20 They entered the room and he then immediately shut the door, a
21 door that the Bergdorf Goodman employees told you would have
22 locked automatically. You heard Ms. Carroll testify about how
23 much she regrets going into that dressing room with Donald
24 Trump that day, how she has asked herself time after time after
25 time why she allowed herself to get caught up in that

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1 situation. She testified that for many years and, indeed, I
2 think to this day, she feels embarrassed, ashamed, and above
3 all stupid, and that she blamed herself for what happens next.
4 As you heard from Dr. Lebowitz, she still does.

5 How could she have agreed to go into the dressing room
6 with Donald Trump? That's a question one might ask today with
7 the benefit of hindsight, just as Ms. Carroll has asked it over
8 and over again. But that's not what Ms. Carroll was thinking
9 in the spring of 1996. To her the situation was harmless, it
10 was funny. She trusted Donald Trump. She didn't see him as a
11 threat the way some women might view him today. He was known
12 as a playboy, a man about town, but not as a man who abused or
13 assaulted women.

14 As soon as they entered the dressing room, Trump
15 suddenly pounced. He closed the door, he lunged at
16 Ms. Carroll, he pushed her against the wall causing her to hit
17 her head backwards against the wall and he pressed his mouth
18 against hers. Ms. Carroll told you that she was shocked. She
19 laughed, actually, in fear and panic, trying to get back to the
20 way things were before, trying to kill anything that was sexy
21 or erotic about what was going on. She pushed back at Trump,
22 trying to get him off her but at first she couldn't. She
23 weighed at the time only 120 pounds, he weighed at least a
24 hundred pounds more than she did. She continued fighting,
25 pushing, and kicking at him. She tried to stomp him on his

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1 shoes with her 4-inch high heels. She also tried to hit him
2 with her purse, trying to do anything to make him stop. Trump
3 pinned her against the wall with his shoulder. At the same
4 time he reached up under her dress and he pulled down her
5 tights. He grabbed her by the pussy or vagina -- I apologize
6 for my language -- and then he shoved his fingers inside her.
7 You heard Ms. Carroll describe how incredibly painful that was.
8 Trump then removed his hand and shoved his penis inside her.
9 Continuing to fight, Ms. Carroll was finally able to get a knee
10 up high enough to push Trump off of her. Terrified and
11 stunned, she opened the dressing room door and escaped. She
12 fled through the store and out onto the Fifth Avenue exit. The
13 whole attack happened quickly, a few minutes at most, but it
14 would stay with Ms. Carroll forever.

15 In the immediate aftermath of the attack, as you
16 heard, E. Jean Carroll told two separate people what happened.
17 She called her friend Lisa Birnbach from the sidewalk on Fifth
18 Avenue outside the Bergdorf Goodman and she told her friend
19 Carol Martin a day or two later. You saw and heard both of
20 them in this courtroom. Let's talk first about Ms. Birnbach.

21 She told you that she received a phone call from
22 Ms. Carroll in the spring of 1996 when she was giving her kids
23 dinner. Ms. Birnbach said when she picked up the phone,
24 E. Jean Carroll sounded agitated like she was hyperventilating.
25 Lisa Birnbach told you that E. Jean proceeded to tell her that

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1 she had gone into a dressing room with Donald Trump, that he
2 pushed her up against the wall, he hit her head and pulled down
3 her tights and forced himself inside her. Ms. Birnbach told
4 you that upon hearing what had happened, she left the kitchen
5 so her kids wouldn't be able to overhear her, and told
6 Ms. Carroll, in no uncertain terms, E. Jean you have been
7 raped. The fact that she left the kitchen, by the way, is a
8 very telling detail, it is the kind of detail that someone
9 doesn't make up.

10 Ms. Birnbach also told Ms. Carroll to tell the police,
11 to go to the police, she even offered to go with her. But as
12 Lisa Birnbach testified, E. Jean Carroll said she didn't want
13 to go to the police and she made Lisa promise never to tell
14 anyone about it ever again. Lisa Birnbach agreed to that. As
15 she explained it to you, it was E. Jean Carroll's story, it was
16 her secret, it was not Lisa Birnbach's story or secret to tell,
17 so she promised not to tell anyone and she kept that secret for
18 two decades. Let's now go to Carol Martin.

19 A day or two after the attack at Bergdorf Goodman,
20 E. Jean approached her good friend Carol Martin, who was
21 actually her closer friend at the time, at the America's
22 Talking offices in New Jersey. They decided that they would
23 talk at Ms. Martin's house which is only 10 minutes away, by
24 car, from work. After work they each drove their own cars to
25 Ms. Martin's house and they went in the house and sat down at

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1 the kitchen island in Ms. Martin's house. At that island
2 Ms. Carroll described what Donald Trump had done to her. Carol
3 Martin told you that she was shocked by what she heard and she
4 hugged Ms. Carroll, continually asking her if she was OK.
5 Carol Martin also testified that she told E. Jean Carroll that
6 it would be crazy for her to report the attack to the police.
7 She advised E. Jean to tell no one and to do nothing. Trump,
8 in Ms. Carroll's mind, was way too powerful, he would bury her
9 if she came forward.

10 Together in this courtroom Lisa Birnbach and Carol
11 Martin provided powerful, independent corroboration of E. Jean
12 Carroll's story. Ms. Carroll spoke with both of them at the
13 time separately. They didn't know each other very well at that
14 point in time and weren't really friends but they each gave
15 Ms. Carroll very different advice and they both sat right over
16 there and told you that they believed Ms. Carroll when she
17 first told them what had happened and they continue to believe
18 her today.

19 Let's now turn to what happened after the attack.
20 E. Jean Carroll returned home that evening with pain in her
21 head and in her vagina, but because of the kind of person she
22 is, rather than taking anything, anything stronger than an
23 aspirin or going to the doctor, she went right to bed. She
24 even went to work the very next day. But despite her best
25 efforts, the assault continued to interfere with her life. She

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1 testified that she had regular flashbacks or intrusive
2 memories. She never again engaged in an intimate relationship
3 with another man. You heard Ms. Carroll explain to you that
4 she lost out on so much of life; no walking the dog together,
5 no cooking dinner together, no one to sit with while you are
6 watching TV. And for years she never told anyone else about
7 what had happened in that dressing room. That is partly
8 because of how she was raised. You heard her sister Cande
9 Carroll explain that in their family they never talked about
10 personal issues. E. Jean Carroll faced life's challenges by
11 putting on the public persona that she had built her career
12 around, the public E. Jean, as she explained it here in this
13 courtroom. She kept her pain and isolation or the private
14 E. Jean to herself. Her sister explained to you that, as
15 children, they were always told by their father to always have
16 a smile on their face, and that's what E. Jean Carroll did.
17 And she, justifiably, was scared that Donald Trump would
18 brutally retaliate if she spoke out, as her friend Carol had
19 warned her he would do, and as we all know since we are sitting
20 here today, he eventually did.

21 Over two decades later, in 2018, Ms. Carroll set off
22 on a road trip in order to write her next book. During that
23 trip, news broke on the Internet and nationwide that many women
24 were speaking out about being sexually abused or assaulted by
25 the famous Hollywood producer Harvey Weinstein. Ms. Carroll

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1 started drafting a list of the men who had mistreated her; some
2 in small humorous ways, like the guy who failed to fix her car,
3 and others in big ways. But, at first, one man in particular
4 was not it on that list. It would be weeks before she would
5 decide to include Donald Trump. She told you here herself why
6 she finally came forward. She could not be silent any longer.
7 It was time, finally, to tell her readers the truth.

8 In June 2019, an excerpt of her book recounting the
9 attack by Trump, was published in *New York* magazine. As it
10 turns out, Carol Martin was 100 percent right. Donald Trump's
11 response was immediate and it was brutal. He went much further
12 than just denying her claim. From the White House he unleashed
13 a series of vicious lies telling the world that she had made
14 the whole thing up, that she was doing it as part of a
15 political conspiracy, and that she was not his type. As a
16 result, Ms. Carroll lost her job at *Elle* magazine where she had
17 worked for the last 27 years. But perhaps much worse than
18 that, she lost the trust of her readers. She had spent almost
19 four decades as a writer working so hard to establish her
20 reputation for honesty and integrity. Her former Editor Robbie
21 Myers told you that to her readers, E. Jean Carroll was a
22 beloved truth-teller, but in a couple of Tweets, Mr. Trump
23 wiped that all away.

24 The backlash from Donald Trump's statements was
25 terrifying. You heard E. Jean Carroll tell you that she

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1 started sleeping at night with a loaded gun in her bed.

2 E. Jean Carroll made the decision, one of the bravest
3 things I have ever seen, to do the one thing she thought she
4 could do to help restore her name, her reputation for honesty,
5 and her integrity -- she filed a lawsuit against Donald Trump.
6 But even that did not stop him. In October 2022, just last
7 year, just as Ms. Carroll told you that she was finally
8 starting to get back, to regain her footing after the earlier
9 attack, Mr. Trump doubled down on every nasty lie he had told
10 about her in 2019 calling her story a con job and a hoax.

11 As Ms. Carroll told you, just as she was getting back
12 up and feeling better, this is the statement that went out.
13 So, when New York passed a law allowing survivors of sexual
14 assault to bring claims, even if the attack happened years ago,
15 Ms. Carroll filed this lawsuit that we are sitting here today
16 for.

17 Now, Ms. Carroll's -- withdrawn.

18 I forgot to show this to you and it is my fault.
19 These are the responses that E. Jean Carroll got -- some of the
20 responses she got, many, many in response to the October 2022
21 statement, and I will let you take some time to read them. I
22 apologize for that. I apologize in advance, given the
23 language. I'm not going to try to read them out loud.

24 OK. Ms. Carroll's case is not only corroborated by
25 documents like you just saw, and by testimony that I have been

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1 talking about, it is also corroborated by science, by what
2 psychologists have learned about what happens to someone when
3 they experience trauma like a sexual assault.

4 Dr. Leslie Lebowitz is a clinical psychologist who has
5 been seeing people who have experienced trauma for four
6 decades. She treats veterans for PTSD following combat. She
7 has worked with veterans in the Air Force to train them on how
8 to deal with sexual assault. She has worked at some of the
9 most important medical centers that have developed the current
10 treatment protocols for how you deal with people who have been
11 injured by trauma. Dr. Lebowitz's testimony backs up each and
12 every aspect of what Ms. Carroll told you, from how she reacted
13 to the sexual assault itself, to how she remembers it, to how
14 she was harmed by the assault in the long-term. Let's start
15 with the sexual assault itself.

16 Dr. Lebowitz explained exactly what happens to a
17 person when they experience trauma. What happens is that a
18 person's brain is flooded with stress hormones. The frontal
19 lobe of the brain -- the part of the brain that we use to make
20 decisions, to think through alternatives and decide what to
21 do -- that part of the brain is significantly weakened.
22 Instead, the older, the more primitive part of the brain in the
23 back takes over. As a result of that, people tend to act in
24 really strange ways, in ways that may seem irrational.
25 Dr. Lebowitz explained how sometimes people forget -- or often

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1 people forget how even to dial 911. Dr. Lebowitz gave you a
2 great example of this.

3 Remember what she told you about her mother's friend
4 who was a child in Finland during World War II? She told the
5 story that this woman was with her mother as a child and bombs
6 were falling. The force of a bomb blew away the mother's hat.
7 Instead of grabbing her daughter's hand and running to safety,
8 the mother ran after her hat. That mother loved her child. In
9 that moment she didn't consciously choose to run after her hat,
10 she wouldn't have expected to do that and she probably wouldn't
11 be able to explain to you sitting here today why she did it.
12 That's the brain chemistry of a person experiencing trauma.

13 Now, you heard Donald Trump's lawyers repeatedly ask
14 Ms. Carroll why she was laughing when she got first pushed up
15 against the wall. They repeatedly asked her why she didn't
16 scream. They acted as if Ms. Carroll's response was unusual,
17 unheard of, implausible. But you now understand why those
18 reactions are consistent with the behavior of someone who is
19 experiencing trauma. Dr. Lebowitz explained it to you. People
20 have really strange, really unexpected responses to traumatic
21 situations all the time.

22 Remember when Mr. Trump's lawyers asked Dr. Lebowitz
23 whether or not screaming would be consistent with a rape? Here
24 is what she said. She said that not screaming would not only
25 be absolutely consistent with being raped, but based on her

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1 40 years of clinical work, screaming is one of the least likely
2 things that actually occurs.

3 Dr. Lebowitz' testimony also helps to explain the ways
4 in which Ms. Carroll remembered the attack by Donald Trump
5 after it happened. So, first of all, Dr. Lebowitz told you
6 that people tend to remember lots of details from the beginning
7 of a traumatic event but far fewer details at the end. Why is
8 that? It's because those stress hormones, as they come into
9 the brain, over time, become toxic and they impinge on the
10 brain's ability to remember things.

11 In addition, there are certain things that people
12 remember from a trauma better than others. What people tend to
13 remember are sense reimpersions -- the way something smelled,
14 the way it felt -- since its easier for the brain to remember
15 that and to store it. But people may not remember more
16 complicated things like the context of what was happening when
17 it was going on outside the trauma.

18 Remember the example Dr. Lebowitz gave you? She
19 talked about parents who thought their child had been hit by a
20 car when they heard the screeching of tires outside their
21 house. The sinking feeling that they felt in their gut when
22 they ran outside and didn't see their child. That sinking
23 feeling -- I am sure we have all experienced it -- may stick
24 with you for years and years. But even if that sinking feeling
25 remains, the parents -- and I am sure you have also experienced

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1 that too -- may later disagree about what exactly the date was
2 when that happened or even what house they were living in at
3 the time.

4 Think about how that explains E. Jean Carroll's
5 testimony here. She remembers certain things from her
6 encounter with Donald Trump in vivid, technicolor detail. She
7 remembers the back and forth about trying on the bodysuit in
8 the lead-up to the assault. She remembers the gifts they were
9 talking about, the hat that she said Donald Trump petted and
10 the handbag that they looked at on the first floor. She
11 remembers distinctly some of the exact words they exchanged.
12 *Hey, you're that advice lady.* She remembers exactly how it
13 felt to have Trump's fingers inside her. And -- I find this
14 part really telling -- she remembers the sound of Trump's heavy
15 breathing as he was facing the wall next to her neck. But
16 Ms. Carroll does not remember exactly how she got out of the
17 store and she has made no secret of the fact she doesn't
18 remember the exact date. She remembers -- just like
19 Dr. Lebowitz said, she remembers certain things vividly and
20 other things not so much. Again, that's exactly what you would
21 expect to see in someone who has survived trauma.

22 Dr. Lebowitz also testified to you about how
23 Ms. Carroll processed the rape and how that contributed to her
24 decision not to talk about it for so many years. She said
25 that -- Dr. Lebowitz said that E. Jean Carroll experienced what

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1 is called self-blame. In many ways that kind of means what it
2 says, it is to blame yourself. But the problem with self-blame
3 is that people may blame themselves for something, even like
4 here, when they have no responsibility for it. They know in
5 their head it wasn't their fault but they still feel in their
6 gut like it was.

7 Ms. Carroll presents a classic case of self-blame.
8 Self-blame helps to explain why she didn't go to the police,
9 why she didn't go to store security right after the assault,
10 and it explains why she had so much difficulty talking about
11 the assault in the years that followed.

12 Finally, Dr. Lebowitz talked about the long-term harm
13 that the sexual assault caused Ms. Carroll. Self-blame,
14 itself, is a big part of that. Imagine what it would feel like
15 to feel like you were responsible or to blame being sexually
16 assaulted. It made Ms. Carroll feel dirty and unworthy and
17 spoiled, like spoiled goods, and ashamed.

18 Ms. Carroll also experiences what psychologists call
19 intrusive memories. They come in snippets or flashes. She
20 doesn't, to this day, know exactly what the triggers are. She
21 might unsuspectedly see an image of sexual assault. She might
22 actually feel physically Trump's fingers. When these
23 intrusions occur, she has to work really hard to bat them away.
24 That process of trying to get the ugly thoughts and intrusive
25 memories out of her mind is itself really tiring and

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1 emotionally draining. But perhaps, most important of all,
2 Dr. Lebowitz testified that the sexual assault caused E. Jean
3 Carroll to engage in what are called avoidant behaviors, that
4 means something you do something to avoid something else. For
5 Ms. Carroll, this meant that she would avoid engaging in the
6 types of activity that she blames herself for that led to the
7 sexual assault. What does that mean? It means that when she
8 encounters a man of a similar age who might seem like a
9 romantic possibility, she literally shuts down. She doesn't
10 flirt, as she did that day, with Donald Trump at Bergdorf
11 Goodman. She doesn't engage, as she did that day, with Donald
12 Trump; she avoids eye contact. As Dr. Lebowitz told you, it is
13 like a metal grate being pulled down over the front of a bodega
14 in New York City. This is a huge departure from the way
15 E. Jean Carroll lived her life before the assault. She used to
16 have a healthy dating life, she was married twice, she loved
17 romance, she loved being in love, she continued to date men
18 until right up when the sexual assault happened. But
19 afterwards, she cut herself off from any possibility of
20 developing a romantic relationship. For almost 30 years she
21 hasn't had a partner, for almost 30 years she hasn't had
22 companionship.

23 Finally, Dr. Lebowitz did not exaggerate, in any
24 respect, Ms. Carroll's harms. Dr. Lebowitz told you, and
25 recognizes, that Ms. Carroll is a very resilient person. She

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1 acknowledged that E. Jean Carroll has drawn on that resiliency
2 and strength to cope with the trauma she experienced. She did
3 not diagnose E. Jean Carroll with PTSD. She says she has
4 symptoms in two of the categories but not all four that are
5 necessary, and that she is not disabled the way she talked
6 about with some of those veterans she had diagnosed with PTSD.

7 Dr. Lebowitz also freely acknowledged certain aspects
8 of Ms. Carroll's life after the sexual assault that might seem
9 weird or unusual to you and that Mr. Trump's lawyers pointed
10 out. She was aware that Ms. Carroll had watched *The Apprentice*
11 on the TV, she was aware that E. Jean Carroll kept the dress
12 from the day of the assault, and she was aware that E. Jean
13 Carroll returned to Bergdorf Goodman. She explained that these
14 behaviors were consistent with who E. Jean is, her need to
15 avoid the fact that she had been negatively impacted in any way
16 by Donald Trump. In other words, throwing away a very
17 expensive dress, refusing to watch a popular TV show that all
18 your friends were talking about, or not going back to her very
19 favorite store that would have forced her to acknowledge
20 something too painful for her, that the assault had impacted
21 her deeply.

22 Now, one more thing on Dr. Lebowitz. Donald Trump's
23 lawyers tried to suggest that maybe Ms. Carroll had somehow
24 tricked Dr. Lebowitz into arriving at her opinion based on
25 lies, on false or exaggerated information. Do you remember

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1 what Dr. Lebowitz said in response to that? She testified that
2 it was her opinion, as a psychologist with 40 years of
3 experience, that E. Jean did not lie about her symptoms and
4 experiences in order to benefit her case. This, ladies and
5 gentlemen of the jury, is a very big deal. The psychological
6 expert in this case told you that she believes Ms. Carroll.

7 I now want to talk about the ways Mr. Trump and his
8 team have tried to attack all the evidence that we have just
9 gone through supporting E. Jean Carroll. One principal line of
10 attack, the one main line of attack that they have has focused
11 on the way that E. Jean Carroll has lived her life in the years
12 since she was attacked.

13 During his cross-examination of Ms. Carroll,
14 Mr. Tacopina asked her a lot of questions about the fact that
15 in the years after the assault and right up until today, if
16 someone on a TV show or a podcast or in the hallway outside
17 this courtroom asked E. Jean Carroll how she was doing, she
18 would almost inevitably always answer that she is fabulous.
19 Ms. Carroll freely acknowledged that in many of her public
20 appearances she would say that her career was going well, that
21 she was happy. She also acknowledged that from time to time
22 she even would go to parties with her friends. When
23 Mr. Tacopina asked these questions on cross-examination, he
24 acted as if E. Jean Carroll had made some huge confession, as
25 if there were something wrong with this behavior, as if it is

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1 somehow problematic that E. Jean Carroll has tried her best to
2 live a happy life and present a brave, brave face to the world.
3 But Ms. Carroll testified here that as much as she had to try
4 to portray the public E. Jean as happy and successful, as
5 fabulous -- she used her favorite word -- in private she has
6 continued to suffer a great deal. She has tried to live her
7 life on her own terms as best she can. She has continued to
8 work. She talked about setting up her Substack after she was
9 let go at *Elle*. She has enjoyed time for happiness. And she
10 has definitely gone to parties with friends. Why is Mr. Trump
11 trying to blame Ms. Carroll for these things? His argument
12 seems to be that if a woman is going to accuse a man of sexual
13 assault she must play the part, she must act the way a rape
14 victim is somehow supposed to act. But this makes no sense and
15 you know that. If a person is the victim of any other kind of
16 wrongdoing, if they are injured in a car accident, if they get
17 mugged on the street, are they required to live a life of total
18 suffering and helplessness in order to seek justice in the
19 courts? Of course not. But when it comes to survivors of
20 sexual assault, like Ms. Carroll, Donald Trump thinks she is
21 somehow not entitled to assert her claim if she has taken any
22 step to pick up the pieces of her life, to move on, to seek out
23 friends, to seek out company, to go to parties. That's just
24 plain wrong.

25 Now, you have heard Mr. Trump's team say over and over

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1 again that you should rely on Ms. Carroll's interview on
2 Anderson Cooper, that it somehow sheds light on whether or not
3 she was sexually assaulted. For example, in his October 2022
4 TruthSocial post that is Plaintiff's Exhibit 4, Donald Trump
5 says: If you watched Anderson Cooper's interview with her
6 where she was promoting a really crummy book, you will see that
7 it was a complete scam.

8 At his deposition in Florida that happened just a week
9 after that, Mr. Trump testified that on the Anderson Cooper
10 show E. Jean Carroll said that she loved it, that she said it
11 was very sexy to be raped, he even claimed that she said
12 something to the effect that she loved being sexually
13 assaulted.

14 Let's watch for ourselves.

15 (video played)

16 MS. KAPLAN: You know what E. Jean actually said. She
17 did not say being raped by Mr. Trump was sexy, or that she
18 loved -- loved -- being sexually assaulted by him. Not at all.
19 She explained that she was talking about our popular culture
20 and entertainment, shows like *Game of Thrones* where rapes
21 happen over and over again and that's part of drawing people
22 into the audience. She said that what Donald Trump did to her,
23 on the other hand, was violent and horrible.

24 Ms. Carroll testified, and you saw it for yourselves
25 in this courtroom, that she still has a very, very hard time

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1 using the word rape. But as we heard Dr. Lebowitz explain,
2 E. Jean's refusal to call what happened to her rape or to
3 identify herself as a victim does not mean that she was not
4 sexually assaulted.

5 Now, another way that Donald Trump responds to all of
6 this is by trying to get you to believe in the big lie. What
7 do I mean when I say the big lie? I mean that Mr. Trump's
8 lawyers need you to find that not only E. Jean Carroll, but
9 also Lisa Birnbach and Carol Martin are all lying, that they
10 are all part of some part of coordinated conspiracy, that they
11 somehow joined forces and agreed to come up with a story about
12 an assault that happened nearly 30 years ago simply because
13 they hate Donald Trump. I'm sorry. Seriously? That's just
14 ridiculous.

15 First of all, there is no evidence -- not a shred --
16 that any such conspiracy exists. No testimony. No documents.
17 Nowhere in all of those pages of e-mails and texts between
18 E. Jean Carroll, Lisa Birnbach, and Carol Martin did you see
19 anything suggesting that they all agreed to come up with a lie
20 that Donald Trump raped E. Jean Carroll. In fact, you saw the
21 opposite of that. You heard Ms. Martin read from a text she
22 sent to a friend in 2021 -- a friend, so it is not Lisa
23 Birnbach and she is not texting E. Jean Carroll -- another
24 friend, in which she expressed frustration that she was dealing
25 with the publicity from this case and she suggested that that

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1 was due to a simple chat with a friend 25 years ago. That's
2 the chat she testified to in the kitchen.

3 And you also saw the text that Lisa Birnbach sent
4 E. Jean Carroll right after she agreed to become publicly
5 identified as one of the people that E. Jean Carroll told.
6 Ms. Birnbach explained that even though that she was scared and
7 concerned that then president Donald Trump would attack her she
8 says, "it wasn't political in 1996 when you told me, it was
9 personal."

10 These are private texts that Carol Martin and Lisa
11 Birnbach never expected to see the light of day, much less to
12 have you read them here in this courtroom. And far from
13 suggesting that these women were somehow in cahoots with
14 E. Jean Carroll to lie about Donald Trump assaulting her, they
15 are rock solid evidence that all three of them are telling the
16 truth.

17 What about the defense's theory that E. Jean, Lisa and
18 Carol hatched this conspiracy because they really, really hated
19 Donald Trump. I'm going to be honest with you. It is true for
20 sure that Lisa Birnbach and Carol Martin don't like Donald
21 Trump. They oppose his political positions. They didn't think
22 he was a good president, to put it mildly, and they certainly
23 don't want him to become president again. And, by the way,
24 they're not exactly happy about the fact that he sexually
25 assaulted their good friend. But the idea that this means that

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Summation - Ms. Kaplan

1 they would hatch a conspiracy in 2017 or 2018 about something
2 that happened in 1996 is absurd. As Mr. Tacopina pointed out
3 in his opening statement, Donald Trump is a figure who elicits
4 strong feelings in many people. Mr. Tacopina told you that day
5 that it's OK if you don't like Donald Trump. As he explained
6 and as I agree, the right place to act on those feelings is in
7 the ballot box, not here in this case. The same, of course
8 however, is equally true for Lisa Birnbach and Carol Martin.
9 Yes, they oppose Donald Trump politically but that has nothing
10 to do with their testimony in this case. Lisa Birnbach
11 confirmed that for you on the witness stand when asked whether
12 she would perjure herself, lie under oath in order to ensure
13 that Donald Trump did not become president again she said under
14 oath "never in a million years." Joshua Matz said the same
15 thing. As much as she regarded the Trump presidency as a
16 disaster, she said that under no circumstances would she
17 perjure herself and lie about a sexual assault in order to take
18 him down politically.

19 Think about this for a second. Lisa Birnbach and
20 Carol Martin are both successful women with families and
21 established careers. Why would someone like Carol Martin, who
22 through her own grit and determination worked her way up to
23 become a nightly news anchor in New York City, why would she
24 agree to lie under oath for anyone, even for E. Jean Carroll?
25 To suggest that she would engage in that kind of conspiracy is

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Summation - Ms. Kaplan

1 literally crazy.

2 In his cross-examination of Carol, Mr. Tacopina
3 focused on some text messages. In venting to friend and
4 relatives, Carol Martin didn't always say super nice things
5 about her friend E. Jean. Trump's lawyers have suggested that
6 these private texts and this private venting must mean that
7 Carol Martin is lying. But you heard from Martin herself. She
8 testified that she has not always agreed with the way E. Jean
9 has handled the public attention in this case and that she has
10 been concerned that it has taken up too much of E. Jean
11 Carroll's life. She also testified that she was worried when
12 she became publicly identified about her own safety and about
13 the safety of her daughter and granddaughter. And while she
14 regrets some of the strong language she used, she also told you
15 that there is nothing in those texts that she hasn't shared
16 directly with E. Jean Carroll. Indeed, as I am sure some of
17 you know, sometimes that's just the way how close friends talk
18 about each other.

19 But that does not mean that Carol Martin doubted what
20 E. Jean Carroll told her about the attack at Bergdorf Goodman.
21 Carol Martin told you, point blank, that she believes E. Jean
22 Carroll. If the sexual assault had never happened, why
23 wouldn't Carol Martin, frustrated by the invasion of privacy,
24 frustrated by the concerns about her security, why would she
25 play along with the lie? If Trump's so-called conspiracy

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Summation - Ms. Kaplan

1 actually existed, why would Carol Martin complain about one of
2 the women in the conspiracy -- E. Jean Carroll -- to friends of
3 hers outside the conspiracy?

4 Carol Martin did not have to publicly support E. Jean
5 Carroll when she came forward in 2019. Carol Martin told you,
6 point blank, that she wasn't thrilled about participating in
7 this lawsuit. She wasn't thrilled about producing her private
8 texts to Trump's lawyers. She wasn't thrilled about testifying
9 at her deposition, and she certainly hadn't been looking
10 forward to testifying here but she did all of those things and
11 she did all of those things because she was telling the truth.

12 To be clear, in order to win, Trump needs you to
13 conclude that not only that E. Jean Carroll is lying, but that
14 all three of these women perjured themselves in this courtroom.
15 I think you know that that didn't happen.

16 At this point I think you can see how the weight of
17 the evidence in this case is extremely lopsided. On the one
18 hand you have the repeated denials of Donald Trump. On the
19 other hand, you have the testimony of E. Jean Carroll, Cande
20 Carroll, Cheryl Beall, Robert Salerno, Lisa Birnbach, and Carol
21 Martin, who all corroborated E. Jean Carroll's case and Trump
22 wants you to reject it. Actually, Trump needs you to reject
23 all of it. But it doesn't stop there. You will learn that
24 what happened to E. Jean Carroll at Bergdorf Goodman that day
25 was not an isolated event.

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Summation - Ms. Kaplan

1 At this trial you heard powerful evidence that Donald
2 Trump has an MO. What's his MO? He chats up women in a
3 friendly way in a semi-public place, he then pounces on them
4 suddenly or unexpectedly, he then starts kissing them without
5 their consent. For some of them, including E. Jean, he grabs
6 them by the vagina. It is not just E. Jean Carroll who fit
7 this pattern. You heard the testimony of two other women,
8 Jessica Leeds and Natasha Stoyloff who were sexually assaulted
9 by Donald Trump in a very similar way. Let me start with
10 Jessica Leeds.

11 Jessica Leeds testified that, in 1979, Donald Trump
12 assaulted her on an airplane. Just a few years younger than
13 E. Jean Carroll, Jessica Leeds was a product of the same
14 generation. She didn't tell a soul about it. She knew that
15 things like this happened when she traveled and she didn't want
16 to risk losing her job. But, in 2016 she watched a
17 presidential debate and heard Donald Trump tell Anderson Cooper
18 that he never kissed a woman without her consent. She came
19 forward. And then what happened? Trump went after her. He
20 declared that she was lying. He said -- and again, remember
21 these words -- he told the world that she was not his type.
22 Sound familiar, ladies and gentlemen of the jury?

23 You also heard from Natasha Stoyloff, it happens much
24 later in time, now December 2005. Her job at *People* magazine
25 is to cover the Trump beat, she covered the Trump family. In

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Summation - Ms. Kaplan

1 December 2005 she traveled to Mar-a-Lago to write a story about
2 his wife Melania who was then pregnant. Ms. Stoyloff told you
3 that when Melania left to change her outfit, Trump led Natasha
4 into an empty room, claiming that he wanted to show her a
5 painting, but as soon as they entered the room he closed the
6 door behind them, pushed her against the wall, pinned her down
7 with his shoulder, and started kissing her without consent.
8 Again, sound familiar?

9 Ms. Stoyloff, who is much younger than Ms. Carroll and
10 Ms. Leeds, told several people about the attack right
11 afterwards. His attorney, Mr. Tacopina, didn't really try to
12 cross-examine her at all. That's because they know it is true.

13 In 2016 Ms. Stoyloff came forward after hearing
14 Trump's denial in that same presidential debate. And when she
15 did, yet again, following the MO, Trump publicly disparaged
16 her, denying the attack, and again insulting her appearance.
17 This time he said: *Look at her. Go take a look at her. I*
18 *don't think so.*

19 There is even another similarity. You heard that just
20 like E. Jean Carroll, neither Jessica Leeds, nor Natasha
21 Stoyloff, screamed. None of them screamed when Donald Trump
22 was assaulting them. Not one.

23 So, what do we have? Three different women, decades
24 apart as you can see on this chart, but one single pattern of
25 behavior. In that respect what happened to E. Jean Carroll is

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Summation - Ms. Kaplan

1 not unique. Trump's physical attack and his verbal attacks are
2 his standard operating procedure or MO. What happened to
3 E. Jean Carroll right in the middle fits this pattern
4 perfectly.

5 Now let's take a look at Donald Trump's side of the
6 story. As I have said more than once this morning, Trump
7 really offers you nothing. It is Trump's word against everyone
8 else's word. As Bugs Bunny used to say at end of the Looney
9 Tunes cartoons I used to loved as a kid: *That's all, folks.*
10 But why would you believe him? The testimony in this case
11 shows that Donald Trump has told lie after lie after lie. What
12 does this tell you? Donald Trump lies as a matter of habit.
13 He lies about almost everything or anything all the time. Some
14 of his lies are big, some are not. But the pattern is clear.
15 Trump decides what to say based on what he thinks will help him
16 most in the moment, not based on what is true.

17 To trust someone they have to be credible. They must
18 be trustworthy, worthy of your trust. Time and time again,
19 Trump has shown you in this case that he is not worthy of
20 anyone's trust. Let me give just a few examples of Donald
21 Trump's clear lies.

22 First, Donald Trump said that he did not shop at
23 Bergdorf's. That was a lie. Cheryl Beall saw him right
24 outside the store and Robert Salerno saw him in the store on at
25 least one or two occasions in the mid-1990s. And you saw on

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Summation - Ms. Kaplan

1 the tape that as I was asking the questions about that, he
2 continued to lie. His lies got bigger during the testimony.

3 Two, Donald Trump said he had never met Ms. Carroll.
4 That was also a lie. There is a photograph that you have all
5 seen now showing otherwise.

6 Three, Donald Trump said that Ms. Carroll was not his
7 type. But then, when he was shown a picture of her at his
8 deposition, he confused her with his second wife Marla Maples.
9 And then, when Trump realized that mistake -- again, this is
10 classic -- he told yet another lie. He said that the
11 photograph was blurry. Blurry? You have seen that photograph.
12 There is nothing blurry about that professionally-taken
13 photograph.

14 Donald Trump -- I'm going to do one more. Donald
15 Trump even lied about his friend Roger Ailes. At his
16 deposition in 2022, Mr. Trump told me that he hadn't become
17 friends with Roger Ailes until seven or eight years ago. But
18 you saw the video clip from November 1995 of Donald Trump
19 appearing on Roger Ailes' show. In that clip, which you saw,
20 they're talking about being on a plane with Trump's daughter,
21 about going to Florida. Obviously they were already friends in
22 1995. You want to know why Donald Trump told me that lie?
23 Because admitting that he knew Roger Ailes in the mid-1990s
24 would be further proof that Donald Trump knew E. Jean Carroll.
25 Roger Ailes was E. Jean Carroll's boss at that time. Donald

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Summation - Ms. Kaplan

1 Trump filmed an episode of his talk show at the very studio in
2 New Jersey where E. Jean Carroll worked every single day.

3 Now, Mr. Tacopina is going to get to come up here as
4 he must, it is his job, and tell you that Ms. Carroll is a liar
5 and she is making it all up. When he does that, think about
6 Donald Trump's MO. Think about the pattern that he admitted to
7 when he thought no one else, other than Billy Bush, was
8 listening on that bus during the *Access Hollywood* tape.

9 (Continued on next page)

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N582Car3

Summation - Ms. Kaplan

1 MS. KAPLAN: And when Mr. Tacopina does that,
2 understand that he necessarily is telling you that all of the
3 other witnesses you have heard over the past couple of weeks
4 are also lying. Donald Trump's defense here is essentially
5 that there is a vast conspiracy against him; that Ms. Carroll
6 conspired with Lisa Birnbach, that she conspired with Carol
7 Martin to fabricate an extreme hoax about Trump; that she
8 somehow also got two former Bergdorf Goodman employees, people
9 who she never met, to join in that conspiracy; and that she
10 somehow was able to convince Natasha Stoyloff and Jessica Leeds
11 to travel here to New York City and commit perjury on the
12 witness stand. Donald Trump wants and needs you to disregard
13 all the evidence you have heard in this case, to brand all the
14 witnesses who are brave enough to come here and testify as
15 liars. Does that make any sense at all? Or does it, instead,
16 suggest that there is one person here who is lying, and that
17 person is Donald Trump?

18 Tomorrow morning you will hear from the judge,
19 Judge Kaplan, who will provide you with detailed instructions
20 on the legal questions you must answer in this case, but -- and
21 you will have that for yourselves tomorrow. But let me just
22 pause here and talk about something that the judge explained at
23 the beginning of the trial and I'm sure he is going to talk
24 about more tomorrow. This is not a criminal case. This is a
25 civil case, which means that if you find Donald Trump liable,

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Summation - Ms. Kaplan

1 he is not going to jail.

2 Because this isn't a criminal case, what we call the
3 standard of proof or our burden as the plaintiff in this case
4 is very different. In criminal cases, as you probably heard, a
5 jury has to find a defendant committed a crime beyond a
6 reasonable doubt. That's a very, very high standard, and that
7 standard does not apply here. But because this is a civil
8 case, the burden of proof is lower.

9 For Ms. Carroll's battery claim, you have to find that
10 it is more likely or more probable than not that Donald Trump
11 did what he did in the Bergdorf Goodman dressing room that day,
12 more likely than not. That means over 50 percent. So the
13 question you have to ask yourselves is is it more probable than
14 not that Donald Trump did what E. Jean Carroll and the others
15 have testified to. We believe that the evidence here is
16 overwhelming that he did it, so that should be a pretty easy
17 question to answer.

18 For Ms. Carroll's defamation claim, the standard of
19 proof is different for several of the elements. It is instead
20 clear and convincing evidence. As the judge will explain to
21 you clear and convincing evidence requires something more than
22 just over 50 percent. It requires you to find that something
23 is highly probable. But it still doesn't require proof beyond
24 a reasonable doubt.

25 As you work through the various questions in this case

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Summation - Ms. Kaplan

1 in the jury room, remember what the two sides have presented
2 throughout this trial. On the one hand, you have all the
3 evidence that E. Jean Carroll has presented. You have her own
4 testimony. You have the consistent testimony of Lisa Birnbach.
5 You have the consistent testimony of Carol Martin. You have
6 the consistent testimony of Cheryl Beall and Bob Salerno from
7 Bergdorf Goodman. You have the testimony of two other women,
8 Natasha Stoyloff and Jessica Leeds, who were attacked by Donald
9 Trump in a very similar way. You also have the testimony of
10 Dr. Lebowitz, Professor Humphreys, her former boss Robbie Myers
11 and her sister Cande Carroll.

12 On the other hand, you have Donald Trump and Donald
13 Trump alone. Mr. Trump's defense in this action is to accuse
14 each and every one of the other witnesses of lying, of crafting
15 an elaborate conspiracy, a hoax, which is a word he likes to
16 use. He is asking you to take his word for it over the word of
17 literally everyone else.

18 And Mr. Trump—and this is very important—is accusing
19 everyone of lying about everything. He didn't offer some
20 middle ground position in which Ms. Carroll is right about some
21 things but misremembers in some respects what actually
22 happened. He doesn't admit to seeing E. Jean Carroll at
23 Bergdorf that day but claim that she somehow consented to have
24 sex with him, as you heard Ms. Carroll said she expected him to
25 say. No. That's not it at all. According to Donald Trump, he

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1 wasn't at Bergdorf Goodman that day at all. According to
2 Donald Trump, he almost never went to Bergdorf Goodman. In
3 fact, as we discussed, he claims he never met E. Jean Carroll
4 at all. He is claiming that everything you heard at trial,
5 every sworn detail is a lie. And as we have discussed, Donald
6 Trump has uttered multiple lies in this very case, both big and
7 small. In order for you to find for him, you need to conclude
8 that Donald Trump, the nonstop liar, is the only person in this
9 courtroom who has been telling the truth.

10 But it's even worse than that. In order to find for
11 Donald Trump, you also need to conclude that he is telling --
12 that while he is telling the truth now, when he was speaking
13 earlier, he was not telling the truth. Remember the
14 *Access Hollywood* tape? There, when he thought no one was
15 listening and when he wasn't trying to avoid the consequences
16 of his own actions, he admitted on video to doing exactly the
17 kind of things that has brought us here to this courtroom.
18 Grab 'em by the pussy. Don't wait.

19 Donald Trump has an M.O. He makes friendly chitchat
20 with a woman he finds he is attracted to in a semi public space
21 where they wouldn't expect to be attacked. He suddenly lunges
22 at her. He pounces. He kisses. He grabs. He doesn't wait.
23 And if a woman later speaks up, he lies about it. He demeans
24 her. He insults her. He says that she is too ugly for anyone
25 to assault.

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Summation - Ms. Kaplan

1 At this point, I believe that my review of the
2 evidence has shown you that it is very clear that Donald Trump
3 did in fact sexually assault E. Jean Carroll in the spring of
4 1996 and that he defamed her in 2022 after she told the truth
5 about what he had done.

6 Because Donald Trump did both of these things, the law
7 allows you to compensate E. Jean Carroll for the harm that she
8 suffered. So what is the level of damages? I'm not going to
9 stand here and tell you exactly how much you should award
10 E. Jean Carroll in damages, but there are a few things that you
11 can consider in coming to that conclusion.

12 First of all, Professor Humphreys told you about the
13 millions of people that heard and likely believed Donald
14 Trump's public statements about E. Jean Carroll. What is the
15 price for having to live your life in shame and to lose your
16 good name because Donald Trump lied and told millions of people
17 that you are a liar?

18 In addition, Dr. Lebowitz told you that the assault
19 caused E. Jean Carroll to lose something extremely important to
20 her and, frankly, to all of us, her ability to pursue romantic
21 relationships, her ability to pursue intimacy, and perhaps most
22 importantly, companionship. What is the price for decades of
23 living alone without companionship, for having no one to cook
24 dinner with, no one to walk your dog with, no one to watch TV
25 with, and for feeling for decades like you are dirty and

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Summation - Ms. Kaplan

1 unworthy? Once again, ladies and gentlemen, that's your issue
2 to decide. I'm not going to put a number on that for you.

3 As the judge will instruct you, the law allows you to
4 award damages for these considerations and others that he will
5 read to you tomorrow. Ultimately, you should consider the
6 evidence and pick the number you think is right. But please
7 remember, for E. Jean Carroll, this lawsuit is not about the
8 money. As she told you on the stand, this lawsuit is about
9 getting her name back. That's why we all are here.

10 Ultimately, I know that you will deliver a verdict
11 based on the evidence you have seen and heard. You watched
12 Ms. Carroll right here in this courtroom as she delivered
13 incredibly courageous, consistent, clear testimony over two
14 days. You watched the other fact witnesses sit before you and
15 also provide compelling testimony that corroborated what
16 E. Jean Carroll had said, sometimes down to the smallest
17 detail. Taken together, the overwhelming weight of the
18 evidence establishes two things: One, Donald Trump sexually
19 assaulted E. Jean Carroll in a dressing room in the lingerie
20 department at Bergdorf Goodman in the early spring of 1996;
21 and, two, Donald Trump defamed E. Jean Carroll after she spoke
22 up publicly about what had happened. That is what the evidence
23 in this case establishes. But I think you already know that.

24 On behalf of our whole team, on behalf of my brave
25 client, E. Jean Carroll, for whom it has been such a privilege

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1 and honor to represent, thank you very much for your time.

2 THE COURT: Thank you, counsel.

3 Could I just see Mr. Tacopina and Ms. Kaplan at the
4 sidebar?

5 (Continued on next page)

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(At the sidebar)

THE COURT: The timing turns out to be different than we all thought, so my question to you is do you want to make any change in what we planned? I don't know how long you plan to be, Mr. Tacopina.

MR. TACOPINA: Probably less than two hours, I think, but, you know, I have done a dry run, and there are slides and all this stuff. Your Honor, if we can just take a bathroom break and I could start. If we start at 11:30, I will go past 1:00, though. Is that okay?

THE COURT: That's really what I am asking, because if you go past 1:00 and then we break for three quarters of an hour, 1:45, then we finish at 2:15, 2:30, I could charge until 3:30, and the case could go to the jury today. I'm not sure what to do about that.

MS. KAPLAN: Would it be okay, your Honor, if we take a break now, I talk to my team, and we come back with a proposal? I apologize. I had a post it --

THE COURT: They are ready to eat lunch right now.

MS. KAPLAN: Are you asking right now?

MR. TACOPINA: Me? You mean the jury.

THE COURT: Yes. The question is do we take 45 minutes now or do we take five minutes?

MS. KAPLAN: I defer to Mr. Tacopina.

MR. TACOPINA: I'm ready whenever you are, your Honor.

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1 THE COURT: You want the time? Fine.

2 MR. TACOPINA: Yeah, 45 minutes, yes.

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(In open court)

THE COURT: Scheduling discussions, ladies and gentlemen.

We will break until 12:00. I understand your lunch, whether you are eager for it or not, is inside, and then we will continue at noon with the defense closing argument, and we will see how it goes during the rest of the day in terms of timing.

Thank you.

(Luncheon recess)

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A F T E R N O O N S E S S I O N

12:05 p.m.

(Jury not present)

THE COURT: Good afternoon. Quiet please.

Just so you know where I am going, I misspoke in the course of making that ruling on an objection to the charge relating to *Law & Order*. It's at page 1217 of the transcript, line 20. I seem to have said plaintiff. I should have said defendant. It's clear from the context, in any case.

Okay, Mr. Ferrara.

MR. FERRARA: Your Honor, defense counsel shared -- let us look through their slides for their closing, and we had one issue. They use a slide that refers to a piece of transcript about George Conway introducing Ms. Carroll to her attorney. Your Honor will recall that I had made an objection during the course of the trial. Your Honor pointed out, rightly, that I belatedly had made that objection. But during the course of the back-and-forth regarding the objection, Mr. Tacopina represented to the Court that there would be no more argument about George Conway, particularly as regards to linking Ms. Carroll up with her lawyers. And so your Honor said there was nothing to do. I think the way your Honor put it, at 652 of the transcript, at line 19, was, "I have three things to say about that. Based on the representation by Mr. Tacopina that there will be no such argument for the rest

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1 of this case about Mr. Conway and how the lawyer got together
2 with Ms. Carroll, I don't think I have a problem going
3 forward." So that's at 652/line 20.

4 So we just want to flag this because there is this
5 slide that highlights that testimony from Ms. Carroll.

6 THE COURT: Let me see the slide.

7 MR. TACOPINA: Someone put the slide up for the judge,
8 please.

9 Your Honor, while you are waiting for the slide, can I
10 say something?

11 THE COURT: I would rather see the slide first.

12 MR. TACOPINA: There it is.

13 THE COURT: Now Mr. Tacopina.

14 MR. TACOPINA: Sure, your Honor.

15 THE COURT: Go ahead.

16 MR. TACOPINA: Your Honor, if you look above, the
17 above attribution to me, it was simply about not invoking the
18 name of the Kaplan law firm, which I still don't intend to do.

19 THE COURT: I'm sorry. We are talking --

20 MR. TACOPINA: Yeah.

21 THE COURT: We are talking about at page 650--something
22 of the transcript or are we talking about somewhere else?

23 MR. TACOPINA: Page 652 of the transcript, your Honor.
24 I said: I stand by the question. It is an appropriate
25 question, because Mr. Conway introduced Ms. Carroll to an

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1 attorney. And I specifically did not mention Ms. Kaplan. I
2 have no intention of arguing Ms. Kaplan is part of any
3 democratic conspiracy or anyone at that table. So that's why I
4 made it bland when I said an attorney. That's also what I -- I
5 don't plan on invoking Ms. Kaplan's name or the firm's name,
6 simply that what I said there I stand by. I'm just bringing
7 out the fact that he simply introduced her to an attorney,
8 which is the trial testimony.

9 MR. FERRARA: We think it's obvious, your Honor, that
10 we are the attorneys, we are the attorneys sitting here, and
11 there was a motion *in limine* on this about not arguing or
12 putting in evidence about choice of counsel. So we just don't
13 think that it is an appropriate line of argument.

14 THE COURT: Which *in limine* ruling?

15 MR. TACOPINA: Your Honor, your Honor, I can make this
16 easier. We can take that one slide easier.

17 THE COURT: Thank you, Mr. Tacopina.

18 MR. TACOPINA: Mike, I'm still using the argument
19 about Mr. Conway's convincing Ms. Carroll, but I won't
20 reference that he introduced --

21 THE COURT: I didn't get the substance of what you
22 just said.

23 MR. TACOPINA: I'm sorry. Mr. Ferrara, who had --

24 THE COURT: Maybe Mr. Ferrara and you communicate on a
25 different plane, but I didn't get it.

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1 MR. FERRARA: I think what Mr. Tacopina is saying, we
2 don't object to the idea that Mr. Tacopina may argue that
3 George Conway put this idea or discussed a lawsuit with
4 Ms. Carroll. We understand. We are not objecting to that line
5 of argument.

6 THE COURT: But what I am trying to find out, the
7 meaning of what Mr. Tacopina just said that I didn't
8 understand. That's what I am trying to find out.

9 MR. TACOPINA: Trial testimony, your Honor. It is
10 just trial testimony that Mr. Conway was the one who convinced,
11 persuaded Ms. Carroll to bring a lawsuit without going into
12 "and then he introduced her to an attorney." I will leave that
13 out.

14 THE COURT: Is that a problem, now, Mr. Ferrara?

15 MR. FERRARA: No, your Honor.

16 MR. TACOPINA: Let me take it out before I forget I
17 took it out. Hold on.

18 THE COURT: So much for the 45-minute lunch break.

19 MR. TACOPINA: We are okay.

20 THE COURT: All right. Let's get the jury.

21 (Continued on next page)
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Summation - Mr. Tacopina

1 (Jury present)

2 THE COURT: Okay. We will now hear closing argument
3 on behalf of the defendant.

4 Mr. Tacopina.

5 MR. TACOPINA: Thank you, your Honor.

6 Counsel. Good afternoon, ladies and gentlemen.

7 That last hour and a half was hard for me to listen to
8 from Ms. Kaplan. Ms. Kaplan is a great lawyer, no question
9 about that, but she took some liberty with the facts in this
10 case. What I am going to do is different. I am going to show
11 you transcripts on key issues here, transcripts from the trial
12 before you on key issues. We are going to take a journey to
13 justice and as I show you how this story falls apart piece by
14 piece.

15 Before I go there, I just want to recall from two
16 weeks ago—it seems like two years ago when we had the opening
17 statements, but two weeks ago—I shared some words of
18 importance regarding the justice system. And after seeing the
19 evidence in this case, in this courtroom, come to light, I
20 think those words have greater meaning and bear repeating, so
21 bear with me.

22 But first and foremost, I want to thank you for your
23 time. That's something that, you know, we take for granted,
24 but you guys have been ripped out of your daily lives and your
25 families and your work and whatever else you do and you have

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Summation - Mr. Tacopina

1 given yourself to this important, important case, and this
2 commitment.

3 And there is no greater service that a citizen can do
4 in this country than what you are being asked to do now,
5 consider whether an accusation as heinous as a claim of rape
6 has merit, to serve on a jury, to weigh the evidence fairly and
7 impartially, and to safeguard our rights and the legal process.

8 And with that in mind, I want to remind you what I
9 said in my opening. I said that one thing in this country that
10 cannot be compromised, that cannot be bent, that must always be
11 absolute, that should not be wielded by the -- based on the
12 whims of someone who would seek to abuse it is the justice
13 system. It's our defense against all tyranny. It's what gives
14 you, the citizens of this country, the ability to defend
15 against oppression and defend yourselves.

16 People have very strong feelings about Donald Trump.
17 That's obvious. One way or the other. That's a fact. And
18 however you feel about it is okay. We didn't even ask you that
19 when we picked you as jurors. It's okay however you feel about
20 him. I said this before. You could hate Donald Trump. It's
21 okay. But there is a time and a secret place to do that. It's
22 called a ballot box during an election. It's not here.
23 Because to do so in a court of law would make one no better
24 than those who would seek to bend the rule of law for their own
25 personal agendas. We must all strive to be better than that,

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Summation - Mr. Tacopina

1 to protect ourselves, to show that while -- Ms. Kaplan said no
2 one is above the law, absolutely, but no one is below it
3 either. No one is below it either.

4 Politicians don't make this country great. Jurors do.
5 Jurors do. If you follow your solemn oaths as jurors in this
6 case and take them seriously and apply the facts to the law,
7 justice will be served quickly, quickly. And that's paramount
8 in this courtroom, that the rule of law that every defendant,
9 regardless of that defendant's name, be protected for the sake
10 of all of us.

11 With that in mind, the evidence in this case has shown
12 that what E. Jean Carroll has done here is an affront to
13 justice. She has abused this system by bringing a false claim
14 for, amongst other things, money, status, political reasons.
15 And I'm not just going to say it, I'm going to show you the
16 testimony. And in doing so, she has minimized real rape
17 victims, you know, rape victims down by the water and around
18 the world, to use someone's words. She is exploiting their
19 pain and suffering and is capitalizing on their stories, and we
20 can't let her profit to the tune of millions of dollars for her
21 abuse of this process and her efforts to deceive you. I'm
22 going to show you. I'm going to pull it all together for you,
23 I promise you, in this next little time we spend together. You
24 will have no doubt how this story, this scam of a lawsuit came
25 together.

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Summation - Mr. Tacopina

1 As I said, you can feel however you feel about Donald
2 Trump. It's okay. But, guys, ladies and gentlemen, not a
3 single word, not a single word tearing apart her story comes
4 from Donald Trump. Ms. Carroll said it's the word of Donald
5 Trump against the word of everyone else. No, it's not. All
6 Donald Trump said was, I didn't do it. I don't know what she's
7 talking about. He just said, I didn't do it. He didn't tear
8 apart her story. She tore apart her story. Cross-examination,
9 Carol Martin, others tore apart her story.

10 You heard him deny through his deposition testimony
11 that she made it up. He met her briefly on a receiving line at
12 an event seven or eight years before she claims this happened
13 at Bergdorf Goodman, which hundreds of people were present, and
14 he didn't remember seeing her. And, you know, Ms. Kaplan then
15 said, well, maybe, maybe he saw her when he was at Roger Ailes'
16 TV show because, you know, she also filmed a show there. It
17 was four hours earlier, but maybe she saw him there or he saw
18 her there. And maybe he was watching late night TV and
19 watching a rerun on Roger Ailes' network of E. Jean Carroll.
20 So maybe. So that's proof that they knew each other. That was
21 the argument.

22 Look. That opening statement by Ms. Kaplan, again,
23 who I respect a lot, was very, very defensive for someone who
24 has the burden of proof in this case, very defensive. She
25 spent a large part of her opening presenting excuses. The

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Summation - Mr. Tacopina

1 store was empty, the door was open, why she acted and didn't
2 act the way she did, oh, the text messages from Ms. Martin and
3 Ms. Birnbach and all that, a lot of excuses, not a lot about
4 the substance of what was alleged here.

5 I'm going to now, so we get this out of the way, play
6 you the defendant's sworn testimony denying this claim, so
7 there is no question that he has denied this under oath, being
8 questioned by the same lawyer sitting here today.

9 Go ahead, please.

10 (Video played)

11 MR. TACOPINA: So that was his under oath testimony
12 saying it's not true. I didn't do it.

13 Now I'm going to harken back to that in a second, but
14 before I do, let's just put up Plaintiff's Exhibit 12. This
15 whole thing about he knew her, knew her, met her, seriously,
16 this is smoking gun evidence that he knew her, that they met at
17 some event for a few minutes on a line or -- and by the way, if
18 you look at this, Mr. Trump is clearly addressing John Johnson
19 right there with his fingers extended towards him,
20 Ms. Carroll's ex-husband, but for some reason she held on to
21 this photograph for three decades and brought it to court as
22 some sort of proof that they knew each other.

23 Look. Donald Trump doesn't have a story to tell here
24 other than to say it's a lie, what you heard him say and how
25 outrageous it is to be accused of rape, the worst thing you

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Summation - Mr. Tacopina

1 could accuse someone of, rape. You heard him say under oath,
2 being questioned by Ms. Kaplan -- and understand this, folks,
3 we are not arguing, and I think you know this by now, but we
4 are not arguing consent, meaning this was a consensual act
5 where Ms. Carroll was okay with it and Mr. Trump was playing
6 along.

7 I mean, by the way, Ms. Carroll said she wouldn't have
8 even sued him if he had simply just said it was consensual,
9 which is ridiculous. Think about what she is saying here.
10 Suddenly being lunged at, having her head banged against the
11 wall twice, that it hurt, being physically restrained, having
12 his chest pressed so heavily into her that it prevented her
13 from screaming, having someone forcibly put their penis in
14 without an invitation, and causing to engage in a colossal
15 battle to free herself by stomping her feet, hitting him, and
16 pushing the person off with her knee could somehow be viewed as
17 consensual? She literally said to him, I don't think I would
18 have sued him if he just said it was consensual. A rape is a
19 rape is a rape. That's just as much a rape as anything else.

20 We are saying it never happened because it did not
21 happen. I don't think anyone seriously thinks this happened in
22 Bergdorf Goodman in the lingerie section of a department store
23 in New York City, open department store and Donald Trump, one
24 of the most famous people in New York City, in there.

25 But think about this here. The evidence in this case

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Summation - Mr. Tacopina

1 it was commented, oh, well, we didn't call any witness. Well,
2 who? I could say to any one of you, You stole my pen on some
3 unknown date. How do you prove you didn't do it? How do you
4 prove a negative? You stole my pen, Mr. DeOreo. How do you
5 prove you didn't do it? Say, I didn't do it? Call witnesses?

6 I mean, if something is completely made up, the only
7 way to defend yourself against that accusation is by
8 challenging the people who made it up and the story itself.
9 That's why our defense came out through cross-examination in
10 this case. The entire defense came out through
11 cross-examination of their witnesses. Challenging the story is
12 our defense. There are no witnesses for us to call. Who are
13 you going to call? Somebody who wasn't in Bergdorf Goodman on
14 some unknown date? There is no witnesses for us to call
15 because he wasn't there. It didn't happen.

16 And if Donald Trump testified, what could I have asked
17 him? What could I have asked Donald Trump that he wasn't just
18 asked in that day-long deposition? Where were you on some
19 unknown date 27 or 28 years ago? I mean, that would have to be
20 the question because they don't know the date, they don't know
21 the year. And why is there no date to an event as significant
22 as this in someone's life? No date. By Ms. Carroll, by
23 Ms. Birnbach, and by Ms. Martin. It's not a coincidence all of
24 them can't narrow down a time frame because they don't want to
25 give Donald Trump the opportunity to present an alibi witness.

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Summation - Mr. Tacopina

1 Give me a date. November of 1995, November 7, April 3 of 1996?
2 Sure. There's calendars. There's schedules. There's
3 appointments. We could see where he was. But of course with
4 no date, no month, no year, can't present an alibi. Can't call
5 witnesses.

6 For the first time at trial Ms. Carroll actually said
7 to you or to anyone she always thought it was a Thursday night.
8 She always thought it was a Thursday. The first time, that
9 happened at trial. But she didn't say beforehand, she said,
10 because she wasn't 100 percent sure. This from a person who
11 gave you two different years, two different seasons. Obviously
12 she wasn't sure about that. She had no problem giving you
13 that. But Thursday, she wasn't 100 percent sure, so she didn't
14 want to say Thursday. But now she claims she didn't say the
15 day of the week because she wasn't 100 percent certain. She
16 only said Thursday, ladies and gentlemen, for the first time
17 ever at this trial because she just watched the witness before
18 her, the Bergdorf Goodman lady come in here and testify that
19 Bergdorf Goodman was open late on Thursdays. She tailored her
20 testimony right in front of you, right in front of you, one of
21 several times, and we're going to get there.

22 And by the way, this is a civil case. Ms. Kaplan is
23 right. This is a civil case. If they wanted to, they could
24 have called Donald Trump as a witness. They could have asked
25 him questions. They didn't want to do that. Instead, what

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Summation - Mr. Tacopina

1 they want is for you to hate him enough to ignore the facts.
2 That's what they want. They hope you will hate him enough, you
3 will ignore her story, but that story makes no sense by her own
4 admission, by her own admission. They want you to focus on
5 anything but her story. Her whole opening summation was about
6 the excuses, not the story.

7 They call Robbie Myers, the last witness to the
8 witness stand, Robbie Myers, the former editor in chief at *Elle*
9 who left in 2017, before Ms. Carroll was terminated, years
10 before Ms. Carroll was terminated? To tell you what? That she
11 was a great writer? How is that relevant here? What was that
12 hour of our lives wasted for? Robbie Myers.

13 They called Cande Carol, the sister of Ms. Carroll,
14 who said, well, we never shared negative things with our
15 parents because we were private. That's not private. That's
16 family. Private. Private is I don't tell my friends something
17 embarrassing or something like that. That's her family. They
18 brought her in here to give that excuse. Oh, we didn't share
19 anything private. It's family. Our dad told us to always
20 smile. Seriously? That was -- that was why she was called to
21 the witness stand? Dad always said smile, so we couldn't talk
22 about bad things in our house ever, in our family ever. That's
23 why Ms. Carroll didn't tell anyone. Really.

24 And even when learning about this alleged rape in an
25 e-mail from her sister, Cande Carroll didn't ask her sister,

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Summation - Mr. Tacopina

1 Why didn't you tell me about this earlier? No. She never even
2 questioned her about it. Hmm. Is that credible? Is that
3 believable? Is that what we would all do in our lives?

4 You know, all of that was meant to distract you from
5 E. Jean Carroll's story, just like the other women they brought
6 in here, Natasha Stoyloff and Jessica Leeds. They have nothing
7 to do with whether you should believe E. Jean Carroll's
8 unbelievable story. Those two have nothing to do with whether
9 you should believe the story that she even calls unbelievable.
10 They both told you, both told you they have no legal claim for
11 you, the jury, to decide. I can't help but comment on the
12 absurdity of Ms. Leeds's story, however, that's because I can't
13 help myself sometimes, but that's a woman who actually said 40
14 years ago she was sexually assaulted on a commercial airplane.
15 At first on TV she said it was for 15 minutes I was being
16 assaulted, then here she said it was a few seconds. It's a
17 close one—three seconds, 15 minutes.

18 She said some stranger assaulted her as another
19 passenger watched this happening. She didn't tell the flight
20 attendant or anyone else because, she said, it's just like the
21 rigors of travel, like lose your luggage or a flight delay or
22 get sexually assaulted. That's not my words. I'm showing you
23 the transcript because it's almost -- you wouldn't believe me
24 if I said that to you:

25 "And the reason you didn't say anything to your boss

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Summation - Mr. Tacopina

1 is because you didn't want to explain" -- should be complain --
2 "about the, to use your words -- the rigors of travel.
3 Correct."

4 Answer -- I'm sorry.

5 "A Correct.

6 "Q So it's your testimony that getting sexually assaulted on a
7 plane is sort of just rigors of travel?

8 "A Yes."

9 Are you kidding me? Losing your luggage is the rigors
10 of travel. Having a delay on the flight is the rigors of
11 travel. Being sexually assaulted on a plane is the rigors of
12 travel?

13 She also said that, well, she wouldn't have been upset
14 if that person that she didn't know had stopped on the above
15 the waist, was just sexually assaulting her above the waist.
16 She wouldn't even have left first class for that. It's just
17 absurd. It's absurd.

18 Then she claims she sees him at a charity event three
19 years later where she looks completely different. She cut her
20 long hair short. On the plane she said she was wearing a brown
21 tweed business suit. At the charity event she was wearing a
22 yellow evening gown, and that Donald Trump walks up with his
23 pregnant wife to get his ticket and she is there handing him
24 the thing for this table and Donald Trump says to her, You're
25 the cunt from the airplane, right in front of his pregnant wife

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Summation - Mr. Tacopina

1 and a crowd of people. Is that really believable?

2 Think of her story. And of course she is passionate
3 about politics. She only comes forward with the story for the
4 first time ever after 40 years, when he is seriously
5 considering running for president. And she is, as she told
6 you, jumping up and down in rage in front of her TV, then she
7 comes forward with the story. It's ridiculous.

8 And Natasha Stoyneff's claim is that Donald Trump
9 kissed her and she pushed him off her. The reason I didn't ask
10 her any questions is simply this. I asked her, I did ask her
11 one question: Do you have any claim for this jury to decide?
12 And she said, no, I never brought a claim and I have no claim
13 for this jury to decide. Okay. Thank you.

14 You know, it doesn't all of a sudden make
15 Ms. Carroll's unbelievable claim and absurd claim suddenly
16 believable. Ms. Kaplan said I didn't ask her questions
17 because -- listen. This was the argument you just heard. I
18 didn't ask Ms. Stoyneff any questions, even though I did the
19 important one like, anything for this jury to decide? No.
20 Thank you. But Ms. Kaplan said I didn't ask her any
21 questions—I guess she meant about the facts—because I knew
22 she was telling the truth. Well, following Ms. Kaplan's
23 argument, then, I guess I knew what Ms. Carroll and Ms. Leeds
24 said wasn't the truth because I asked them plenty of questions.
25 I asked them plenty of questions.

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Summation - Mr. Tacopina

1 Again, neither of those two claims are for you to
2 decide. They are distractions. Why did they call them? The
3 same reason they played that *Access Hollywood* tape five times
4 in this courtroom so far. The *Access Hollywood* tape, five
5 times of Donald Trump talking about women letting you do
6 certain things because you are a celebrity? Ms. Kaplan said
7 sexual assault. If you listen to that tape, he is talking
8 about being rejected by one woman he was trying to get with,
9 and she said no and then he is saying they let you do that when
10 you are a celebrity.

11 Now, make no mistake about it the word sexual assault
12 came from Ms. Kaplan's mouth, but that's what she is saying.
13 It's crude. It's rude. You heard him apologize for it on that
14 debate with Hillary Clinton. He apologized for it. he said, I
15 embarrassed my family, I embarrassed myself, it was locker room
16 talk, I apologize. It's rude and it's crude. It's gross. I
17 would knock my boys' teeth out if they talked like that,
18 honestly. But he did. He talked that way. He said that.

19 But that doesn't make Ms. Carroll's unbelievable story
20 believable. That doesn't do that. That's a distraction again.
21 So they argued that he had a *modus operandi*—M.O.—of denying
22 and attacking women who have made allegations against him, as
23 if that's a *modus operandi*? When he gets falsely accused of
24 doing something, he denies it. And he lashes out. Rightfully
25 or wrongfully, he lashes out. it Doesn't make up for the lack

N582Car3

Summation - Mr. Tacopina

1 of proof in Ms. Carroll's unbelievable story.

2 The reason I keep saying Ms. Carroll's unbelievable
3 story is because that's the word she used in describing her
4 story. I will show you the testimony. What they are doing,
5 there is tactic here. It's called the art of distraction.
6 It's a technique that's used to divert attention away from what
7 you are supposed to be focusing on, which is Ms. Carroll's
8 story and whether it's credible or not or believable or not, or
9 real or passes the common sense test that we all have. They
10 are trying to take parts of Donald Trump you dislike or even
11 hate and stretch that over a story that makes no sense
12 whatsoever.

13 But two things can be true at the same time. You
14 could think Donald Trump is a rude and crude person and that
15 her story makes no sense. Both of those could be true. They
16 just want you to ignore all the problems with the story. If
17 the defendant's name were anything but Donald J. Trump, you
18 know we wouldn't be here today. Not on that. Not on this
19 story. There is no way.

20 But she got caught. A couple times she got caught.

21 This was an e-mail that was introduced. Now this
22 e-mail, as the judge will tell you, it was not offered for the
23 truth of the matter in the e-mail itself. It was offered for
24 the state of mind of Ms. Carroll. But it was an e-mail from
25 someone that is in evidence saying, Just to warn you that a

N582Car3

Summation - Mr. Tacopina

1 *Law & Order SVU* episode, Theater Tricks, 2012, has a character,
2 a judge, speaking of a fantasy that he rapes a woman in a
3 Bergdorf Goodman dressing room in the lingerie department.
4 Anyway, I saw the episode last night. Trumpsters will use it
5 against you. Perhaps the writer of the episode, Marygrace
6 O'Shea, is one of the friends you told.

7 Well, let's get that out of the way right away. she
8 didn't say anything to Marygrace O'Shea. She doesn't know who
9 that is, Ms. Carroll.

10 Ms. Carroll responded: Thank you. I haven't seen it,
11 but this happens all the time with *Law & Order* stories.

12 What happens all the time with *Law & Order* stories?
13 That there is a rape in a Bergdorf Goodman lingerie dressing
14 room? That happens all the time in *Law & Order*?

15 There are 200 scripted shows a year on TV. This kind
16 of thing is bound to show up. I mean, it was inevitable that
17 eventually there was going to be a TV show that just happened
18 to match exactly the allegation in this case, to the store, the
19 department, and the dressing room. Just always shows up, was
20 bound to happen. I'm surprised I haven't seen this plot more
21 often, Ms. Carroll says.

22 Well you know that's not true. But here's what she
23 said in trial. This is for the truth of the matter. It's her
24 answer at trial. So my initial question was: "as you sit here
25 today, you know that there was a *Law & Order* episode from 2012

N582Car3

Summation - Mr. Tacopina

1 that featured a woman getting raped in the Bergdorf Goodman
2 lingerie dressing room, correct?

3 "A I am aware, yes."

4 Okay. One of the biggest problems they have is that
5 that cannot be ignored, folks. That could not be ignored. The
6 exact scenario of E. Jean Carroll's rape claim was an episode
7 on *Law & Order* before she wrote her book. Ask yourself what is
8 the likelihood that someone who got raped in Bergdorf Goodman
9 dressing room in the lingerie department and the exact scenario
10 was a TV show? What's the likelihood of that? Probably one in
11 20 billion. Maybe we should get the statistician marketing
12 Ms. Humphreys back up here to give us some numbers on that, one
13 in 20 billion, one in 10 billion?

14 It's the same department store. It's not like Macy's
15 or Bloomingdale's or Saks, not Marshall's, not Nordstrom, but
16 Bergdorf Goodman. What a coincidence. It's not just any
17 department in Bergdorf Goodman—not women's wear, not shoes,
18 purses—the lingerie department. And not just anywhere in the
19 lingerie department, not the vestibule, the bathroom, the
20 hallway, the steps, you know, where it is sometimes a little
21 barren, but the dressing room.

22 THE COURT: Just a minute, Mr. Tacopina.

23 MS. KAPLAN: Your Honor, this has been talked about
24 earlier, and I think your Honor issued an order about there may
25 be an instruction after the opening would be appropriate as to

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Summation - Mr. Tacopina

1 what this evidence is in for.

2 THE COURT: I'm sorry. I didn't get everything you
3 said.

4 MS. KAPLAN: Sure. Your Honor, as you know, you
5 issued an order about this very issue I believe yesterday, and
6 we think that a limiting instruction might be appropriate as to
7 what this is admitted for and what it is not admitted for.

8 THE COURT: I issued an order yesterday?

9 (Counsel confer)

10 MS. KAPLAN: Yeah, I apologize, your Honor, it was the
11 letters were sent yesterday and you ruled this morning.

12 THE COURT: Members of the jury, I'm going to instruct
13 you in greater detail about this later, but there is a
14 distinction to be drawn here and ultimately you will decide
15 what to make of this, if anything.

16 Mr. Tacopina acknowledged that the e-mail from whoever
17 sent the e-mail to Ms. Carroll purporting to relate information
18 about an alleged *Law & Order* episode was not offered and it was
19 not received for the truth of what this person said.

20 Now, let me explain that. If she had written an
21 e-mail saying: Dear Ms. Carroll, the moon is made of green
22 cheese, the effect of the ruling and Mr. Tacopina's
23 acknowledgment that it is not received for the truth of the
24 communication from this other person to Ms. Carroll means that
25 the e-mail from the other person is not evidence you can

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Summation - Mr. Tacopina

1 consider if for some reason it mattered in this case whether or
2 not the moon was made of green cheese. The e-mail was received
3 only for your ability to understand Ms. Carroll's response to
4 the e-mail.

5 Here, Mr. Tacopina puts before you a piece of evidence
6 which he argues constituted an admission, an acknowledgment by
7 Ms. Carroll that there in fact was such a *Law & Order* episode
8 and what its contents were. You are going to have to decide in
9 context whether that is what Ms. Carroll's answer to this
10 question meant or whether it meant something else. And I am
11 confident that you heard the evidence, because there was more
12 testimony at the time, and that you are likely to hear more
13 about it later.

14 Any objection to that, Mr. Tacopina?

15 MR. TACOPINA: No, your Honor. Thank you.

16 THE COURT: Okay. Go ahead.

17 (Continued on next page)

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N585car4

Summation - Mr. Tacopina

1 MR. TACOPINA: Anyway, the Judge just said it. The
2 e-mails -- what I told you before, it was an e-mail, and the
3 judge has instructed you on what that meant, but this here, you
4 can decide if she was answering the question I asked which was
5 simply:

6 As you sit here today, you know there was a law and
7 order episode from 2012 that featured a woman getting raped in
8 the Bergdorf Goodman lingerie dressing room, correct?

9 Answer: I am aware, yes.

10 Now, maybe she was answering some other question that
11 I asked, I don't know, two days earlier, or maybe she was
12 talking about something else, but this seems pretty clear
13 evidence, folks, for you to consider. This is her under oath,
14 on-trial testimony, that she is aware that that episode
15 existed.

16 Back to the coincidence. Are you kidding me? Before
17 she wrote her book there is an exact episode that details the
18 most improbable scenario, in the history of scenarios, that's a
19 Law & Order episode. I didn't hear a word about that in
20 Ms. Kaplan's summation -- not a word -- because it is lethal.
21 It's proof. She, Ms. Carroll herself, called this an
22 astonishing coincidence. That's her testimony.

23 "Q Fantasy of getting raped in the lingerie section of the
24 Bergdorf Goodman department store?

25 "A That was amazing to me.

N585car4

Summation - Mr. Tacopina

1 "Q What do you mean amazing?"

2 I assume amazing coincidence? Yes, astonishing. It
3 was an astonishing coincidence that the show had a fantasy of
4 getting raped in the lingerie department dressing room of the
5 Bergdorf Goodman department store. It was amazing and
6 astonishing to Ms. Carroll. Amazing, astonishing and
7 unbelievable. Astonishing and unbelievable are both
8 Ms. Carroll's words in describing her story, by the way. That
9 is not my argument.

10 Think about it. Donald Trump has a building across
11 the street which we have all heard about, Trump Tower. I mean,
12 he could have taken her there if he wanted to go back with her,
13 she was excited, she was going to dine for life on this story.
14 No, instead he goes into a public department store and risks it
15 all, throwing his whole life away, hoping to God no one would
16 show up on the sixth floor and hear him banging somebody
17 against the wall where he would be immediately arrested by the
18 police, prosecuted for rape, *Apprentice* over, Trump Tower over,
19 everything over. Everything. Think about that. He is going
20 to risk all that in Bergdorf Goodman and his house is across
21 the street?

22 Within minutes -- according to her story, he meets
23 her. Within minutes he is raping her? Within minutes. In a
24 New York City department store in the dressing room that she
25 claimed she walked into first.

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Summation - Mr. Tacopina

1 You heard how famous Donald Trump was in the mid-1990s
2 and she had you believe he is buying lingerie with another
3 woman in a public store in the lingerie section. I don't know
4 if that would happen. I think the New York Post might have put
5 that on Page Six.

6 And think about it. The premise of her story that
7 Donald Trump, 6'3" tall, a generous 225 pounds at the time, one
8 of New York City's most famous people in a public department
9 store was going to try on, over his suit pants, a very pretty
10 see-through lilac/grayish blue one-piece bodysuit? When you
11 became jurors no one asked you to leave your God-given common
12 sense at those doors, no one. And no one will ask you to do
13 that. Putting aside the obvious fact he couldn't get into
14 that, the whole story is clearly an unbelievable work of
15 fiction. I mean, Ms. Carroll tried to liken it to some script
16 she wrote from Saturday Night Live where she said she wrote a
17 script for SNL with William Shatner in it and he was in the
18 bathroom, by himself, trying on underwear admiring himself. I
19 don't even understand that connection or what that has to do
20 with being raped in the changing room of a Bergdorf Goodman
21 dressing room. But, she likened that to this script that she
22 wrote to this situation here.

23 Third thing out of the box on Ms. Carroll, on
24 cross-examination used the word "unbelievable." She called it
25 unbelievable. How are you supposed to believe it? The list of

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Summation - Mr. Tacopina

1 unbelievable facts you have to believe to possibly accept the
2 story is ludicrous.

3 One, although Bergdorf Goodman is New York's most
4 prestigious department store, no one was on the sixth floor.
5 It wasn't likely occupied, there was not a soul there the
6 entire time. Ms. Carroll says that circumstance is hard to
7 imagine, unbelievable. Here is her testimony:

8 "Q You agree that the story about no one being on the sixth
9 floor is inconceivable, correct?

10 "A It's hard to imagine that there would not be a sales
11 attendant in Bergdorf's. Its surprising.

12 "Q The word you used to describe that lack of sales attendants
13 or anyone close was 'inconceivable,' correct?

14 "A Yes.

15 "Q Inconceivable?

16 "A Cannot be imagined.

17 "Q Unbelievable, correct?

18 "A Yes. That's what it means."

19 That was the third question of cross-examination. It
20 is unbelievable. And after hearing that the -- remember this
21 testimony because I'm going to go here for a second to
22 something else that happened -- after hearing the Bergdorf
23 Goodman witness, the first witness who testified say, well, it
24 wasn't really busy in the evenings -- that was Ms. Beall --
25 Ms. Carroll tailored her testimony again in front of you saying

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Summation - Mr. Tacopina

1 it didn't surprise her that no one else was there. Here it is
2 unbelievable and inconceivable; at trial she said, no, it
3 didn't surprise me. And because of what she had said
4 previously in her deposition, her own lawyer, Mr. Ferrara, when
5 he was questioning her, had to contradict her on
6 cross-examination. These are the questions from the trial from
7 her lawyer, not me:

8 "Q Who else was in the -- in that area when you -- with you
9 and Mr. Trump?

10 "A I didn't see anyone.

11 "Q Was that surprising?

12 "A It didn't surprise me, no."

13 OK, remember what she had just said in the last slide
14 it was astonishing? Or no, it was unbelievable, inconceivable.

15 "Q What about sales attendants?

16 "A Didn't see any.

17 "Q Why didn't that surprise you?

18 "A Bergdorf's was not busy in the evenings."

19 Where did she get that from?

20 "Q Had you ever written before that you were surprised by the
21 lack of people on the floor?

22 "A I was not surprised and yet I was surprised."

23 What? What does that mean. She got caught, her
24 lawyer had to correct it because they didn't know I was going
25 to ask her that. So in her deposition she was astonished, it

N585car4

Summation - Mr. Tacopina

1 was unbelievable -- I'm sorry -- inconceivable and unbelievable
2 that no one was up there. At trial, after hearing the Bergdorf
3 Goodman witness, nah, that didn't surprise me. Her lawyer said
4 but, yeah, didn't you say before that you were surprised? Oh
5 well, yeah, I was surprised and yet -- I was not surprised and
6 yet I was surprised.

7 Really? You know, on cross-examination Ms. Carroll
8 admitted no one else there is hard to imagine, it is
9 inconceivable, unbelievable. You saw that slide. Think about
10 that. There it is again but we just went through it. Think
11 about that. Donald Trump is shopping in the most attentive,
12 upscale store in New York City, maybe the world, I don't know.
13 You heard both Bergdorf Goodman witnesses Ms. Beall and
14 Mr. Salerno talk about the store's luxury shopping experience
15 and personalized service. They refer to their customers as
16 clients. And no one -- no one -- not a sales associate, who
17 works on commission, are paying attention to Donald Trump in
18 the women's store no less? No. They wanted to leave him alone
19 and have privacy. That's how they make their money.

20 Ms. Carroll would have you believe that apart from two
21 people on the ground floor she didn't see another person in
22 that department store at all. It was like the sixth floor was
23 like *The Walking Dead*. You know, the TV show where zombies ate
24 everyone and everything is, like, barren and destitute and
25 deserted. That's literally the description. Sixth floor.

N585car4

Summation - Mr. Tacopina

1 Crickets. Nobody. No one there at all. That doesn't sound
2 right. And I think you know that, that no one at all, for this
3 entire time, popped into that sixth floor at all, anywhere on
4 the sixth floor.

5 What else is unbelievable? She said the dressing room
6 door was unlocked and opened. Ms. Carroll says that
7 circumstance was odd and an amazing happenstance. Previously
8 I'm asking about Bergdorf Goodman:

9 "Q So Bergdorf Goodman dressing rooms are usually closed?

10 "A Yes. It struck me as odd.

11 "Q Usually the way it works is they remain locked and closed
12 until a client wanted to try something on and the sales
13 attendant will lock the door and let them in?

14 "A Yes."

15 Ms. Carroll's testimony. She said it was odd, and
16 then I think she went on to say, yes, it was an amazing
17 happenstance. Amazing happenstance that that door was open.

18 Well, first of all, Ms. Kaplan was talking about the
19 fact that I made a big deal out of saying the door was open,
20 even though the Bergdorf witnesses said, oh, sometimes they're
21 open. I didn't make a big deal of it, that's what Ms. Carroll
22 said under oath, that it was an amazing happenstance. I was
23 repeating what she had said.

24 And despite what Ms. Beall came in here and said to
25 you, or tried to sell to you, well, the doors, of course, are

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Summation - Mr. Tacopina

1 supposed to be locked and closed, they don't want running into,
2 especially in the lingerie section, going into the dressing
3 room, throwing little lace things in their pockets and leaving.
4 They're supposed to be locked and closed in a high-value store
5 of things where they're expensive. And of course they are and
6 she said that, Ms. Beall said, yes, that's our policy, they're
7 supposed to be locked and closed but, you know, sales
8 associates, they're just sales associates so sometimes they
9 don't follow the rules.

10 Sorry, Ms. Beall. You know, I come from regular
11 stock, ladies and gentlemen, and I prefer it that way. That
12 offended me. That statement offended me. But Ms. Beall said
13 eh, they're just sales associates so, you know, you can't rely
14 on them to follow the rules. Sorry, Ms. Beall, I'm not as
15 erudite and sophisticated as you. But that is an excuse,
16 another excuse for what is supposed to be there that wasn't
17 there and, as Ms. Carroll said, was an amazing happenstance.
18 What else doesn't make sense? She described what happened in
19 that dressing room as a colossal struggle for three minutes
20 while stomping her feet, hitting him back and fighting to free
21 herself. But, while all of this happened, she never lets go of
22 her purse. She is in a fight for her life and she never lets
23 go of her purse. That's her testimony.

24 "A Hit him back with my knee.

25 "Q OK. And while all of this was happening, your purse was

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Summation - Mr. Tacopina

1 still in one of your hands?"

2 Her answer is not "yes." "Yeah. I know, yeah. I
3 never let go of my purse."

4 That's not right. That doesn't sound right and you
5 know that you if you are going to struggle, the last thing you
6 worry about is holding on to your purse. But why would she say
7 these unbelievable things if she's making up her story? Why?
8 Why not say things that are much more unbelievable like I
9 dropped my purse. You know, if she is going to lie, why not
10 say things that are more believable than this? I will tell you
11 why. Because she needs to reverse-engineer her story, ladies
12 and gentlemen, and what I mean by that is after deciding to
13 write this story with her favorite store Bergdorf Goodman as
14 the backdrop, ripped off the pages of Law & Order, she needed
15 to create a scenario where no one else would be involved -- no
16 one else would be involved -- because otherwise, she needed to
17 identify anyone else who would be present and her story would
18 fall apart because it never happened.

19 What else is unbelievable is that there was loose --
20 not one piece on a display counter, Ms. Carroll said there were
21 two boxes of merchandise just lying around, things lying around
22 on the counter like it was like Filene's Basement where you go
23 in there and start rumbling through stuff.

24 Her tights didn't rip after this colossal struggle?
25 And the physical act itself is impossible. I mean, these are

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Summation - Mr. Tacopina

1 all things you get to consider. The physical act itself. I
2 mean, think about it, Ms. Carroll described here what she
3 described, that Donald Trump, with his shoulder pushed against
4 her chest, while her knees -- her tights are pulled down above
5 her knees while she is stomping him with four inch heels,
6 hitting him, he must have managed somehow with that other hand
7 to open his pants and during the struggle, somehow engaged in a
8 sexual act with her while she is standing up, stamping her
9 feet, with her legs being pulled together by tights above her
10 knee? You can consider anything you want. I am going to tell
11 you what you can consider and what not to consider but common
12 sense, again.

13 Ms. Carroll's claims about what she did during or
14 after the rape, she describes that in her book as problematic,
15 not attacking. She described in her book as problematic, then.
16 They know they have problems with her story so they brought in
17 Dr. Lebowitz. She was a hired gun, she was here to serve as an
18 excuse machine, as if somehow she could try to explain away all
19 the unexplainable. So, that's why, at \$600 an hour,
20 everything -- listen to this -- everything to her is consistent
21 with rape. Her testimony:

22 "Q Are there any reactions to a rape that are not consistent
23 with the victim actually being raped?

24 "A There may be. I can't call any to mind at this moment, but
25 there may be."

N585car4

Summation - Mr. Tacopina

1 Look at that testimony for a second. Imagine that. I
2 mean, if Dr. Lebowitz has her way, anyone who accuses someone
3 of rape, regardless of how unbelievable their story is, would
4 have to be believed because there is no reaction that's not
5 consistent with rape. If you scream, it is consistent. If you
6 don't scream, it is consistent. If you hit someone, it is
7 consistent. If you are paralyzed with fear and don't move, it
8 is consistent. Everything is consistent, according to her.
9 She wasn't credible, Dr. Lebowitz. She was here as a hired
10 expert, a hired gun, as they say, an excuse machine.

11 When asked of Ms. Carroll's statements -- watch this
12 one if you want to determine credibility. When asked of
13 Ms. Carroll's statements "I have these intrusive images since
14 the event" and "I rarely think of it" are inconsistent in terms
15 of context? She said no. That's it, that's the testimony. I
16 have these intrusive images since the event itself, but in her
17 book she wrote: I rarely think of it.

18 *Are those inconsistent Dr. Lebowitz?*

19 *No, that's not inconsistent.*

20 This is as inconsistent as you get. But, don't worry.
21 We know that is not true not because we all have brains, we
22 also know it is not true because in her sworn deposition, only
23 one month before this trial, here is what she said:
24 "Q So there is no inconsistency for her saying that she's been
25 having these ongoing intrusive images since the event herself

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Summation - Mr. Tacopina

1 and then her saying in her book I rarely thought of it?

2 "A They are -- they are inconsistent in terms of content."

3 Come on. That's exactly, literally, the opposite of
4 what she testified to you at trial. This was one month before
5 her trial testimony in her under-oath deposition. You don't
6 need to be a psychologist to know that that's not true. She
7 was here to toe their line even if that meant blatantly turning
8 a blind eye to things that were horrible for them like that.

9 She also admitted Ms. Carroll told her experiences
10 about physical manifestations of back pain just thinking about
11 the camp counselor who had supposedly molested her when she was
12 younger. And because that physical symptom, the back pain, was
13 attributed to something other than Donald Trump, Dr. Lebowitz
14 just left it out of her report. Left it out completely.

15 In any event, her opinion here is meaningless because
16 she had no firsthand knowledge of Ms. Carroll's claim and is
17 just relying on what Ms. Carroll told you, nothing more. Here
18 is the trial testimony:

19 "Q and to be clear, you have no independent knowledge of
20 whether the the alleged sexual assault occurred or not; right?

21 "A That is correct.

22 "Q Your opinions in this case are based upon the accuracy and
23 truth of what Ms. Carroll told you, right?

24 "A Yes.

25 "Q If Ms. Carroll made up this entire event, that would be a

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Summation - Mr. Tacopina

1 problem for your report and opinion; right?

2 "A Yes."

3 So basically, ladies and gentlemen, this is a classic
4 example of garbage in, garbage out. Right? Whatever you put
5 in, it has to be, if it is not accurate or truthful, the report
6 on the other end doesn't mean anything. That is what she just
7 said and acknowledged and she has no idea whether this happened
8 or not.

9 We also know Ms. Carroll withheld information from
10 Dr. Lebowitz. There is a reason Dr. Lebowitz could have used
11 the objective testing to help assess whether Ms. Carroll was
12 malingering -- or the basic word is lying -- but she didn't use
13 any of that testing, she said. She didn't use any of it.
14 Although, Dr. Lebowitz opined that Ms. Carroll felt frightened
15 and overwhelmed walking down the street after she sued Donald
16 Trump. Ms. Carroll never shared this message with her, Exhibit
17 CJ, a text message from Ms. Carroll, she never shared this with
18 Dr. Lebowitz: *Don't worry. I have been walking these great*
19 *New York streets the last six days alone and at night and all*
20 *day long and receive nothing but 'thanks' and thumbs up. It is*
21 *the opposite of concern.*

22 Another conclusion Dr. Lebowitz made, based on the
23 fact that Ms. Carroll told her, that Donald Trump was the cause
24 of her inability to engage in romantic sexual relations.
25 That's what she told her. She said I can't engage in romantic

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Summation - Mr. Tacopina

1 relationships anymore because of this, because of Donald Trump.
2 So, Dr. Lebowitz put that in her report.

3 Look at this. Listen to this. There is a podcast,
4 OK, and there is a podcast where Ms. Carroll was on called
5 *UnStyled*, and she was asked the question about that and her
6 answer in this podcast was: *Well, after the episode in*
7 *Bergdorf's, I never had sex again but I think it wasn't because*
8 *of him.* That is something that Dr. Lebowitz never heard.
9 Ever.

10 Ms. Carroll told Dr. Lebowitz she believed she lost
11 her job at *Elle* because of Donald Trump calling her a liar.
12 What she never told Dr. Lebowitz was that her editor in chief
13 loathed her for selling her story to *New York* magazine, a
14 competitor magazine. This is from the trial:

15 "Q Ms. Carroll never told you when you were interviewing her
16 that her editor in chief loathed her for publishing her story
17 in a competitor magazine, did she?

18 "A No." By Dr. Lebowitz.

19 So Dr. Lebowitz didn't know that so she was going on
20 the fact, OK, he got her fired because he said she was a liar
21 and we know that is not true.

22 You know, remember this, she claims that she was fired
23 because Donald Trump called her a liar. Why did she say that?
24 So she could hold him financially responsible. That's what she
25 is saying that. We know that claim is not true. We saw the

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Summation - Mr. Tacopina

1 e-mail between Ms. Carroll and her agent saying that the editor
2 hated her, that Nina Garcia hated her. Not because of Donald
3 Trump calling her a liar, but because, after decades of being
4 employed by *Elle*, she went behind their back and sold a story
5 to another magazine. That's why Nina Garcia hated her,
6 according to the e-mail Ms. Carroll sent to her own agent.

7 Ms. Carroll told Dr. Lebowitz she didn't watch *The*
8 *Apprentice* a lot, in fact, she only saw it a few times. Well,
9 we know that is not true. Ms. Carroll didn't tell her what she
10 posted on social media which was that: She was -- all caps --
11 a massive fan of *The Apprentice*, which she admitted in this
12 courtroom to you. She was a big fan of the show. And think
13 about that. To believe her story she was raped by Donald Trump
14 you have to believe the show that she was a massive fan in --
15 or of -- was hosted by her rapist and she just watched it
16 repeatedly.

17 She also shopped at Bergdorf Goodman regularly, even
18 went to dressing rooms. OK? And she knew that part sounded
19 bad. She knew that part about going to the dressing room
20 sounded bad so that last part about going to the dressing
21 rooms, she didn't want to say it to you, she lied to you, but
22 got caught. Here is what she said initially:

23 "Q OK. And you go into changing rooms there when making
24 purchases?

25 "A No. I don't believe I ever went into a dressing room"

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Summation - Mr. Tacopina

1 Because that wouldn't sound right but here is what she
2 said earlier from her deposition:

3 "Q Did you go into changing rooms alone?

4 "A Yes. No, I never did? Yes, I did."

5 Right in front of you.

6 You know this, folks, reminds me of a story, this
7 episode we just watched on cross-examination, and on occasion
8 humor creeps its way in whether it is the Court or plaintiff's
9 counsel or defense counsel. Humor creeps its way in sometimes,
10 into a trial, and on occasion if you couldn't break the tension
11 that comes to bear with a case involving some serious
12 accusations we would all go nuts from the tension that comes to
13 bear as a result. So, humor is OK. Sometimes humor is the
14 best way to make a point that you remember long into the night
15 or long into your deliberations, however long you choose it to
16 be, but this story, it is in support because it is important to
17 understand because it is really what this whole trial was
18 about, the whole trial.

19 The story is of an old town long ago. There was a
20 busy intersection, there were no cars, it was horses and
21 buggies, and a man is driving a wagon pulled by a horse, a
22 horse-drawn wagon through an intersection. A dog runs out,
23 scares the horse, the horse rears up, falls on the dog, the
24 wagon turns over, falls on the man.

25 28 years later there is a court case about this and

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Summation - Mr. Tacopina

1 the people who are being sued are trying to show the wagon
2 driver wasn't injured. Even though the wagon fell on him, he
3 wasn't really injured so they're trying to show that.

4 They call the policeman who was the first man on the
5 scene, the first witness on the scene. And they asked the
6 policeman, they said, *Sir, when you came to the scene, what did*
7 *the wagon driver say to you?* And the police officer doubtfully
8 responds he said, *I'm OK, I'm OK.*

9 It seems like pretty solid evidence there is nothing
10 wrong with this guy, that he is not really hurt.

11 Then I get up and do what I do, the cross-examination,
12 the search for the truth, the complete story, and I say to the
13 officer, *Tell this jury everything you saw, everything you did*
14 *from the moment you came on the scene.* And the cop says, *Well,*
15 *you know, I came there, it was terrible. It was a horrible*
16 *scene. The dog was howling in pain; he had three broken legs.*
17 *I took out my gun and I shot the dog. Then I turned to the*
18 *horse. The horse had three broken legs, he was whining in*
19 *pain, so I took out my gun and I shot the horse. Then I turned*
20 *to the wagon driver, he said: I'm OK, I'm OK.*

21 Now, those of you who didn't get it, that's because he
22 didn't want to get shot by the police officer. And don't you
23 need cross-examination for the search for the truth? That's
24 what that's about. It is an analogy but that's what happened
25 in this case, you just saw it with Ms. Carroll again and again

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Summation - Mr. Tacopina

1 and again.

2 Look. Turning back to Dr. Lebowitz, she gave an
3 example of a Vietnam vet who walked down the street and had an
4 adverse reaction to just smelling Vietnamese food, it sent him
5 into a tizzy. OK? He had a reaction. E. Jean Carroll can go
6 to Bergdorf, watch Trump on *The Apprentice* with no reaction at
7 all. Dr. Lebowitz claims that rape victims engage in avoidant
8 behavior but not Ms. Carroll. Not at all.

9 What else did we learn from Dr. Lebowitz? That
10 Ms. Carroll doesn't have anxiety, doesn't have depression,
11 doesn't have PTSD. She has absolutely no diagnosis whatsoever
12 to corroborate her claim of being raped because it never
13 happened. Despite trying to come up with excuses for the
14 unbelievable, they never asked Dr. Lebowitz to discuss
15 Ms. Carroll claimed that she didn't shower after she was raped.
16 Never asked her that one at all. I don't know if she would
17 have an explanation for that.

18 Likewise, they never asked Dr. Lebowitz about
19 Ms. Carroll joking on Facebook in August of 2012 about having
20 sex with Donald Trump for money. That's her Facebook post.
21 Would you have sex with Donald Trump for \$17,000 even if you
22 could (a) give the money to charity; (b) close your eyes and he
23 is not allowed to speak.

24 And I asked her, so you joked around about having sex
25 with Donald Trump for money on this Facebook post that you

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Summation - Mr. Tacopina

1 made? Answer: Yes.

2 Think about that for a second. You would have to
3 believe that she was joking around about having sex for money
4 with her rapist. It's not believable which is why they didn't
5 even try to come up with an excuse for that one with
6 Dr. Lebowitz. They didn't ask her about that.

7 And let's not forget this one, Defendant's Exhibit CU.
8 This is Ms. Carroll who posted a picture of herself on her own
9 Instagram of her walking for The Most Hideous Men in New York
10 City walking tour, the one that went through Tiffany's, NBC,
11 Fox News, Bergdorf. And she posted that on her Instagram while
12 smiling standing next to a man dressed up as Donald Trump, her
13 supposed rapist.

14 I stated in my opening that a picture is worth a
15 thousand words and you see that during this trial why this
16 picture is worth so much more. It is unbelievable that E. Jean
17 Carroll would have been raped by Donald Trump. The man she
18 says is responsible for destroying her reputation, her career,
19 her romantic life, her life, would have caused her these
20 painful intrusive thoughts and yet there she is gleefully
21 posing with his likeness. And they didn't ask Dr. Lebowitz
22 about that one either, they didn't try and explain that one
23 away. It is unexplainable.

24 And look at what she, Ms. Carroll, posted under this
25 photo. Not taking the orange jumpsuit -- not taking off the

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Summation - Mr. Tacopina

1 orange jumpsuit -- which I guess is prison attire -- until
2 Weinstein, Spacey, and certain hideous men are in jail. The
3 Most Hideous Men in New York City Walking Tour. Onward.

4 Do you know who she doesn't seek to put in jail there,
5 obviously is the person who she claims raped her. And on that
6 point, there is no -- I mean no -- objective evidence to
7 corroborate her claim including a police report. That's
8 because she never went to the police. Never went to the
9 police. Even though Ms. Carroll said to you that's not an odd
10 fact. In her book she described it as an odd fact. She wanted
11 to clear it up before she even told her story. This is from
12 her book: *There are several facts, however -- and I will try*
13 *to make them as unsexy as possible -- whatever that means -- in*
14 *fact are so odd I want to clear them up now before we start:*

15 *Did I report the attack to the police? No.*

16 She comes on and says, no, I didn't go to the police
17 but there in her book she did. But the thing is even in her
18 book, she never cleared it up, she didn't explain why she
19 didn't go to the police. All she said was, No. She only
20 provided an answer to that when asked on television, this is
21 Defendant's Exhibit AW.

22 (video played)

23 MR. TACOPINA: Absorb that for a second, if you would.
24 How, please tell me, would that be disrespectful if it really
25 happened? What was she saying? Going to the police to report

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Summation - Mr. Tacopina

1 a violent rapist would be disrespectful to other rape victims
2 around the world. How would that be, exactly? How would that
3 be disrespectful to other rape victims?

4 See, what she really meant to say, and it almost
5 slipped out, was it would be disrespectful to true rape victims
6 to make a false police report. That's why she was never going
7 to the police. I mean, first of all, she talks about there
8 being this issue about the women down by the border -- I
9 wouldn't go to the police because the women down by the border
10 are being raped. Well, first of all, there is no border crisis
11 in the mid-1990s. That was a today thought so she realized
12 when she said that, ah, oh boy. And the women around the
13 world -- so it is not just the women down at the border -- the
14 women around the world who have been raped, it would have been
15 disrespectful to you if I report a rapist.

16 Come on. It doesn't strike anyone's common sense
17 cords at all. At all. That was very telling in that
18 television interview. Here is the real reason she never went
19 to the police, ladies and gentlemen. She never went to the
20 police because it didn't happen. And when you go to the police
21 and file a police report and make a complaint that someone
22 raped you, the police do a real investigation, you know, with a
23 crime scene unit and forensics and they do all of that stuff
24 that a police investigation would require, especially on an
25 allegation serious as rape. That's why she didn't go to the

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Summation - Mr. Tacopina

1 police. Because they would have investigated the real way.
2 They would have gone to Bergdorf. Do you have video cameras
3 here? Let me see if you have Donald Trump and Ms. Carroll
4 together, on the first floor even. Uh, do you have a date,
5 Ms. Carroll? Like do you have one? A little bit? A police
6 investigation would not be something she would want, that's why
7 she didn't report it to the police, not because she didn't want
8 to be disrespectful to the people down at the border who
9 weren't even having an issue in 1995 or 1996.

10 You know, bringing a civil case is very different.
11 Now, you hire a lawyer, the lawyer sues someone, and you go to
12 court. That's it. No one does an independent investigation.
13 No one. Along the same lines she even told you she never even
14 went back to think about looking for surveillance video at
15 Bergdorf Goodman which would have proven her case. She didn't
16 think about it because it never happened. Likewise, there is
17 no medical records, there is no therapeutic records to support
18 her claim because she never went to a doctor, psychiatrist,
19 psychologist, again, because it didn't happen. And that's the
20 reason there is no diary entry about something as horrific as
21 this if it were real. No diary entry.

22 Ms. Carroll is a writer who kept diaries her entire
23 life. She told you. But she doesn't have a diary entry
24 regarding this incident. Why, Ms. Carroll? Well, I never
25 write anything negative in my diaries, she said. You know I

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Summation - Mr. Tacopina

1 write things like: Threw the ball to the dog. Took a walk.
2 That's what she puts in there: Dear Diary, Today I took a
3 walk.

4 You know, you know that is not true. And you know it
5 is not true also not just because I am saying it is not true
6 but because common sense says it is not true because the last
7 thing you heard in this case, which is a stipulation which
8 means an agreement between the two parties, establishing that
9 Ms. Carroll had in fact made negative entries in her diaries,
10 that he listed three of them. She made negative entries in her
11 diaries, just not that one.

12 All objective evidence cuts against her -- all of
13 it -- in this case. So they don't present evidence, they
14 present excuses for lack of evidence and they don't make sense.
15 They just hope -- again, I keep saying it because it is the
16 only reason we are here -- they hope you will be blinded by the
17 hatred for Donald Trump if you feel that way. They just hope.

18 So how did this unbelievable story come about? What
19 are the motivations for it? Well, the genesis of the story is
20 Ms. Carroll's book. She told you people would be interested in
21 Donald Trump's story and selling books was important to her.
22 She tried to downplay that motivation claiming -- remember this
23 one -- I don't know what a signing bonus is. She used that
24 exact term herself. This is trial testimony in front of you
25 all, you jurors who she swore to tell the truth to here.

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Summation - Mr. Tacopina

1 "Q Do you recall previously testifying that you may have
2 gotten a signing bonus?

3 "A I -- I don't know.

4 "Q You don't know?

5 "A I don't know what a signing bonus is."

6 She said to you

7 "Q I'm sorry, Ms. Carroll, did you just say you don't know
8 what a signing bonus for a book advance is it?

9 "A Yeah. I have no idea."

10 That's her sworn testimony and she wants you to
11 believe. Look what happened.

12 (video played)

13 MR. TACOPINA: Hmm. You know? That's just wrong. It
14 is just wrong to get up on the witness stand and swear to you.
15 Signing bonus? What do those words mean? I don't know what a
16 signing bonus is. She brings up in her sworn deposition, under
17 oath, only a few months ago in October of 2022, that's her
18 testimony. So why would she lie to you about that? Why?
19 Because she wanted to minimize her financial reasons for making
20 up this false story which was to sell her book. Sell her book.
21 She told you how important selling her book was. She went on a
22 quest for it. And this is with Ms. Birnbach, she and Lisa
23 Birnbach, by the way, Ms. Birnbach was all too happy to
24 piggyback on Ms. Carroll's story as an opportunity to sell her
25 own books. This is Ms. Carroll commenting to Ms. Birnbach

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Summation - Mr. Tacopina

1 about them selling books together and she said -- well -- and
2 Ms. Birnbach first writes: Uh, we could talk about your book
3 because that was the point but maybe sell a couple copies of my
4 book too. We'll see.

5 And then Ms. Carroll: The main thing is -- all
6 caps -- to sell books. That's the main thing.

7 Ms. Birnbach tried to minimize that saying, well,
8 Ms. Carroll wasn't really able to have a book tour so these
9 book events were as much as she got to do. Well, that's not
10 true. That's not true. I don't know why she said that because
11 Ms. Carroll told you about her podcasts, television interviews
12 you saw her pushing her PR agents, actually berating her PR
13 agents for not getting her more press. She wanted more and
14 more and more.

15 You know, here is a woman who claimed she couldn't
16 talk about this to anybody for 25 years, all of a sudden she
17 can't stop talking about it. Get me more press, that e-mail to
18 the PR agent. I want more. I did the New York Times. I got
19 the big interviews. Get me some more, you are the big agency.

20 Couldn't stop talking about it. 25 years, not a word.
21 It became her lifestyle. Carol Martin told you that. I didn't
22 tell you that, Carol Martin said that, her friend. And
23 Ms. Kaplan said I attacked her for having a lifestyle? No.
24 No, no, no, no. Her behavior is relevant for your
25 consideration but if anyone attacked her lifestyle it was her

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Summation - Mr. Tacopina

1 good friend Carol Martin, not me. Let's go through it and see
2 if you think it is consistent with someone who went through
3 what she claims she went through.

4 You heard she had a watch party for her lawsuit like
5 it was a movie premier or an NFL drafting or something. They
6 had a watch party for her lawsuit so people could gather around
7 and celebrate her. And remember the reaction she blurted out
8 on the witness stand about that? She was reading e-mails about
9 her parties and watch parties and all the celebration of her
10 and she said, *I'm happy to read these e-mails*. Just blurted
11 that out. E. Jean Carroll told you status in New York was
12 important to her, that's from her trial testimony.

13 "A Status is important in New York, that's for sure."

14 And her accusing Donald Trump definitely gave her her
15 status and media exposure, which she loved; you saw with her
16 agents: More. More. More. More. I want more TV. More
17 podcasts. And you saw her on Anderson Cooper living it up.
18 Living it up on CNN. Now, having -- to borrow her word -- she
19 was having a fabulous time. You saw her bizarre behavior on
20 that interview. You heard even stranger things she said. You
21 saw Anderson Cooper's reaction. He almost had a fit at the
22 end. Watch.

23 (video played)

24 MR. TACOPINA: So, you get to evaluate that yourself,
25 I don't have to tell you what you see there or what you should

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Summation - Mr. Tacopina

1 see. You are all people with common sense and street smarts,
2 tell us how that resonated with you. You can decide that. But
3 she certainly presents herself very differently on that program
4 than she did in this courtroom. In fact, she told you she
5 didn't cry there or on any other TV show she had been on
6 talking about this or on any podcast in her multiple, multiple
7 under-oath depositions about this case where she had to do
8 nothing but talk about the event. Never cried once. And on
9 redirect they got back up when her lawyer questioned her after
10 I cross-examined her and tried to suggest she cried because I
11 was asking about screaming on cross-examination. Most of her
12 crying in this case was done on direct examination before I
13 even got up. When she was asked questions about her lawyer and
14 what did she say about the crying itself? It was because she
15 was astonished that in 2023 someone could ask her about not
16 screaming; it was offensive and astonishing.

17 Well, she asked herself that question, folks, before I
18 ever came into this picture, for sure. This is her book
19 proposal, she was getting ready for her book proposal, this is
20 in evidence, and she knew she was going to be asked questions
21 when presenting her book proposal and one of the questions she
22 prepared, her Q&A: Why didn't you scream? And she gave her
23 answer: Too much adrenaline pouring through me to think to
24 scream. She asked herself that question when she was writing
25 her book and preparin to go out and sell her book. Feigning to

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Summation - Mr. Tacopina

1 be offended when someone follows up own that question? She
2 prepared that question because she knew it was a problem with
3 the story. That's why she had four different versions for why
4 she didn't scream: Four. One, I'm not a screamer; two, Donald
5 Trump's chest interfered with her screaming; three, the one you
6 just saw, too much adrenaline to think to scream; and number
7 four, she didn't want to make a fuss in Bergdorf Goodman about
8 making a fuss while being raped. Four different reasons she
9 gave.

10 And understand this folks, please, if there is any
11 questions, I am a father of two daughters, I would never tell a
12 real rape victim how they should actually act or what they
13 should actually do or shouldn't do. I was asking those
14 questions because she gave four different answers for why she
15 says she didn't scream. She even asked herself that question
16 preparing her book tour.

17 But common sense cannot be left at the door. We are
18 not talking about a generic assault in the secluded woods
19 somewhere. She was in an upscale department store, with
20 attentive personal shoppers, in the heart of New York City,
21 with a New York City celebrity. Make no mistake about it,
22 E. Jean Carroll told people she was fabulous coming out with
23 the story because she was fabulous. This was her moment, she
24 became a star. And you heard her. After appearing on CNN that
25 night, she went to a party with her friends and editors and she

N585car4

Summation - Mr. Tacopina

1 told them she was having a ball. She said it was a great
2 night. She said it to you, ladies and gentlemen of the jury.
3 And obviously she said when she was testifying here, you know,
4 that she had a great night when she was talking to you about
5 that party. When she was testifying that wasn't her public
6 persona. When she was testifying here that was her real
7 persona, right? She didn't come in here with her public
8 persona but yet she told you she still had a great night at
9 that party.

10 She even made a point to go to Bergdorf Goodman that
11 day to buy a pair of earrings as a gift for the hostess who
12 organized the party for her. And just stop and think about
13 that for a second. In order to buy a gift for the host of the
14 party meant to celebrate her talking about being raped at
15 Bergdorf Goodman by Donald Trump, she went to Bergdorf Goodman
16 to buy a gift.

17 You know, in this courtroom they try to tell you that
18 when she said she was brave it was just a public persona and
19 that she was very different in private, but what she said in
20 her public book, on TV, she also said it in her private
21 deposition under oath. She said I'm great for two decades.
22 And think about it. That was not on TV or in her book or on a
23 podcast, it was under oath in a deposition in preparation for
24 this case. That's the transcript. And this is important in a
25 second. Watch:

N585car4

Summation - Mr. Tacopina

1 "Q During the two decades that followed, how would you say the
2 alleged attack impacted your life?

3 "A Well, four or five years ago I would have told you no
4 effect. I'm as good as new. This is great. I'm fine. I
5 rarely think of it. But I've come to understand that the rape
6 changed my life which is shocking to me."

7 So she is saying here is for two decades never thought
8 about it. Never. But then, when she can sue for rape under
9 the Adult Survivors Act and she filed that second lawsuit last
10 year because they opened up that window, now when she can sue
11 for rape, she had intrusive thoughts since this first happened.
12 There wasn't a 20-year void there anymore.

13 Look at this testimony. Dr. Lebowitz told you:

14 "Q Now, during your interview, Ms. Carroll told you she had
15 intrusive images that have been ongoing since the alleged rape;
16 correct?

17 "A She did."

18 Well, there you go again. One instance she says I am
19 completely different and then the other instance. And this one
20 was changed because now she can sue for rape and try and get
21 damages for rape so now it is has been on her mind ever since
22 that day. Before she could sue for rape, never thought about
23 it, doesn't enter her mind.

24 The fact is, E. Jean Carroll was never better until
25 she was thrust into the spotlight after falsely claiming she

N585car4

Summation - Mr. Tacopina

1 was raped by the president of the United States. That's when
2 she brought it out, when he was president. She said she made
3 more money with Substack, said she got her revenge on *Elle* with
4 her own admission, and received lots of love and support.

5 Look at this.

6 (video played)

7 MR. TACOPINA: Putting aside their reputational harm
8 expert, who is irrelevant if you find there was no sexual
9 assault, which there wasn't, but she comes in here,
10 Ms. Humphreys, and says she never measured the positive impact
11 of Ms. Carroll's accusation against Donald Trump, only the
12 negative. Meaning she ruled out the fact that the positive
13 impact, which Ms. Carroll talked about when she was talking
14 about the support and love, she didn't measure that, whether it
15 far outweighed the negative impact she had. But, more
16 importantly, the entire analysis is irrelevant here because,
17 again, Ms. Carroll was not defamed by Donald Trump when he
18 strongly denied the rape allegation. She wasn't defamed
19 because it was false. And remember, if there is no rape, there
20 is no defamation. And you will see when you get the verdict
21 sheet all the different rapes and assault, it is all one.
22 There is no sexual assault and there is no defamation, they go
23 hand in hand.

24 You heard, among others reasons, Ms. Carroll's
25 political motivation for making a false accusation. You heard

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Summation - Mr. Tacopina

1 that come out. This is from the initial draft of her book
2 which a publisher must have realized was so harsh, so bad, it
3 called into question her credibility because it was removed
4 from her final version but I get to show it to you at trial.

5 This was from her initial version of the book: *But*
6 *now after two years of watching the man in action, I've become*
7 *persuaded that he wants to kill me. He is poisoning my water.*
8 *He is polluting my air. He is cooking my planet. As he stacks*
9 *the courts my rights over my body will be taken away state by*
10 *state. I am afraid that my right to free speech will go next*
11 *so now I will tell you what happened.*

12 Now, just to be clear, I asked Ms. Carroll, I said,
13 that's what you wrote in the initial draft of your book,
14 correct? And the last four lines here on this big thing and
15 she says -- I asked:

16 "Q That's what you wrote in your initial draft, correct?

17 "A Yes.

18 "Q That part never made it to the book, did it?

19 "A No."

20 You know why that didn't make it into the book.
21 Because it showed the political bias and the motivation for now
22 I'm going to tell you the story. Likewise, you heard
23 Ms. Carroll acknowledge that the same month she filed her
24 lawsuit against Donald Trump, the first lawsuit, the defamation
25 one in November of 2019, she posted on Twitter: *Why isn't a*

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Summation - Mr. Tacopina

1 *rape allegation worthy of an impeachment inquiry?* She thought
2 her story would get him impeached or at least an inquiry. She
3 posted that on Twitter.

4 You heard Lisa Birnbach, what she thinks of Donald
5 Trump politically. She tried to downplay that right out of the
6 box, her political bend right out of the box on
7 cross-examination, second question by Mr. Brandt: Have you
8 made campaign contributions always as a democrat? And her
9 answer was: I think I gave, once, a little bit of money to a
10 pro-choice republican -- this actually may have been on
11 direct -- but here is her answer: I gave money to a republican
12 once.

13 OK? Now, the one problem with that answer is her
14 previous sworn deposition was that she only -- only -- donated
15 to democrats:

16 "Q Have you ever donated to any political campaigns in the
17 past?

18 "A Yes.

19 "Q Which campaigns?

20 "A Many.

21 "Q And have all of those been democratic campaigns?

22 "A Yes."

23 So, again, make no mistake about it, this was a woman
24 who hates -- hated and hates -- Donald Trump with a passion.
25 Hates him politically and personally with a passion. Her own

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Summation - Mr. Tacopina

1 words posted on Facebook, and I asked her this -- or Mr. Brandt
2 asked her this, did she recall posting it on Facebook: "Does
3 it get worse than Donald Trump? Could he be more of a
4 slimeball for whom there are no consequences? Will America
5 survive this administrative? Will we? Some days I am just not
6 sure. I'll tell you one thing, in my entire life I have never
7 felt the hatred that I feel towards this person."

8 And she says she made that statement. Here is a
9 person who, by her own account, thinks about Donald Trump every
10 hour, every day, whether she is awake or asleep. She thinks it
11 is unfathomable that he be treated as anything but a
12 cataclysmic self-interested person who is not good for America.
13 She thinks about him even when she sleeps every day, every
14 hour.

15 Ms. Birnbach told you she thinks Donald Trump, for
16 what he has done politically, should be held accountable. She
17 decided to take matters into her own hands and hold him
18 accountable and her friend E. Jean Carroll gave her just that
19 opportunity. In fact, she told you exactly -- exactly --
20 Ms. Birnbach, what her mindset was -- that Donald Trump would
21 be dealing with so many lawsuits he won't be able to run for
22 president.

23 Carol Martin likewise -- you saw the message from
24 Carol Martin, that poor lady that was in here, about how much
25 she hates Donald Trump politically: *I can't bear to listen to*

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Summation - Mr. Tacopina

1 *Trump. I feel unsafe under his rule. I hate Donald Trump more*
2 *than words. He deliberately abandoned us.*

3 The reasons Ms. Carroll, Ms. Birnbach, and Ms. Martin
4 colluded to advance this false rape story from 27 or 28 years
5 ago weren't well hidden before you. And you know what else
6 they couldn't hide from you which shows that they made this up?
7 The fact that none of them -- none of them -- spoke to anyone
8 else about it again, not even amongst themselves. Never again,
9 until Ms. Carroll's book decades after the fact. They just had
10 this one quick conversation, never spoke about it again,
11 Ms. Birnbach wasn't allowed to think about it, she thought, we
12 will get to that, never a word to each other ever, or anyone
13 else. That's just an amazing fact, too amazing to be true.
14 Amazing. And that's the word that Ms. Martin used, not me.
15 She used it herself, despite what E. Jean Carroll told you,
16 Carol Martin said she wasn't even asked to remain silent:

17 "Q And why do you think you never discussed it?" I asked
18 Ms. Martin:

19 "A It was sort of amazing but she didn't ask me not to. But
20 it just wasn't something we talked about."

21 Amazing. Odd. Inconceivable. Unbelievable.
22 Everything in this case is one of those things. But you are
23 supposed to buy it hook, line, and sinker. So understand that
24 testimony right there. Carol Martin, according to her, sees
25 her friend at work the next time they were at work -- they were

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Summation - Mr. Tacopina

1 work friends, really -- and she told her in her house that she
2 had been raped by Donald Trump. And when she sees her at work
3 and doesn't even say *How you doing? Are you OK?* Never.
4 Never. *Do you need anything?* That's what they actually
5 testified to. Do you really believe that, ladies and gentlemen
6 of the jury?

7 Is that just another amazing claim? Ms. Martin didn't
8 tell anyone, not her husband, not during the election night
9 even though she hated Trump, felt so strongly about Donald
10 Trump politically? Didn't mention it? *Oh my God, he is going*
11 *win, he raped my friend.* And why is that? Because they didn't
12 get together and collude until Ms. Carroll's book.

13 The devil is in the details, especially when it comes
14 to things that weren't in Ms. Carroll's book. It is easier to
15 read the book and remember what is in the book but there was no
16 script for, I don't know, for instance, for how Ms. Carroll
17 claims to have told Ms. Martin about her rape. According to
18 Ms. Carroll, she says she mentioned a few details about the
19 sexual assault at work and then Ms. Carroll said let's go back
20 to my house and talk about it tonight. That's what she said.

21 In fact, it is your testimony that you gave Carol
22 Martin a few details right there and then while still at work?

23 Yes, I did; Ms. Carroll said.

24 According to you, after you gave Ms. Martin a few
25 details about what supposedly happened, she told let's go,

N585car4

Summation - Mr. Tacopina

1 let's talk about it at my house tonight?

2 Yes.

3 So, that's Ms. Carroll's version. Of course, this is
4 not part of the book. Ms. Martin says something completely
5 different, that they didn't discuss it or she didn't know
6 anything about it until they got to her home.

7 "Q Anyway, it is -- Ms. Martin, it's your testimony before you
8 got to your house and had that conversation did you know
9 specifically what Ms. Carroll wanted to speak to you about?

10 "A No, I did not."

11 According is to Ms. Martin it was an ordinary day and
12 Ms. Carroll simply asked if they could go back to the house and
13 talk, in fact, contradicting Ms. Carroll's testimony, E. Jean
14 Carroll's testimony. Ms. Martin said Ms. Carroll didn't give
15 her any details about this until they got to their home. What
16 did she say? Again, taking this piece by piece, what did she
17 say happened? She introduced it to me by saying you won't
18 believe what happened to me the other night, as I recall, and I
19 didn't know what to expect so I just turned to her and she
20 said: Trump attacked the me. According to Ms. Martin it was
21 an ordinary day and Ms. Carroll simply asked to hang out after
22 work, and of course that contradicted what Ms. Carroll said to
23 you all.

24 And you saw the message from Ms. Martin to E. Jean
25 Carroll about definitely needing to get together with her and

N585car4

Summation - Mr. Tacopina

1 Ms. Birnbach before Ms. Martin's deposition in this case. Look
2 at that right there for a second, folks. That's a text message
3 from Ms. Martin to E. Jean Carroll. You, me, and Lisa
4 definitely -- all caps -- have to get together and sit and chat
5 before then. And what they're talking about is, if you look up
6 above, her being prepared for her deposition from her lawyer.
7 She has a deposition coming up and they have to get together
8 before then.

9 Think about what that tells you. Think about what it
10 tells you, really. If they were being truthful, why do they
11 definitely have to get together before the deposition? Why?
12 Why? You're being deposed under oath, tell the truth, nothing
13 but the truth, and then leave. Why do we definitely have to
14 get together before I am being deposed?

15 And again, she never thought this message would ever
16 see a courtroom. Never. She was shocked.

17 But even with this scheme, they didn't think to nail
18 down the details of their story. But, even if they could,
19 there is simply no plausible explanation at all as to why they
20 didn't talk amongst themselves even once before Ms. Carroll's
21 book except for the obvious: The story was made up for
22 Ms. Carroll's book. I mean, put yourself in those shoes for a
23 second. Your best friend or a friend tells you they were raped
24 by someone everyone knows and you don't even follow up and ask
25 are you OK? 20 years. The guy is running for president. You

N585car4

Summation - Mr. Tacopina

1 are watching the election with that friend. Do you believe
2 this? The guy who raped you? No. Nothing. Until the book.

3 Lisa Birnbach actually said that she forgot her friend
4 was supposedly raped by Donald Trump. Forgot. For 20-some
5 years. Think about what Ms. Birnbach had to say about this.
6 Ms. Birnbach says she didn't even think about this story on
7 election night 2016, that Donald Trump, the person she hated
8 more than anybody according to her message, had raped her close
9 friend E. Jean Carroll. She is watching the election with
10 E. Jean Carroll. They're sick to their stomach that Donald
11 Trump is winning. Not that they can't even talk about it, it
12 didn't cross her mind. It didn't even cross her mind.

13 The testimony of Ms. Birnbach:

14 It is your testimony that on that night, at your
15 residence, with Ms. Carroll present, it never came up in your
16 mind, the connection between Ms. Carroll and Mr. Trump and the
17 alleged incident in Bergdorf Goodman?

18 That is correct. It did not come up.

19 It didn't enter your mind?

20 I wasn't thinking about it.

21 Please. Come on, ladies and gentlemen. Where do we
22 all come from? There is no way that is truthful testimony. Or
23 it is truthful because nothing ever happened. There is no way
24 you would not be talking to your friend about it because you
25 don't remember it.

N585car4

Summation - Mr. Tacopina

1 And when questioned about this by the New York Times,
2 what her reason for it not crossing her mind is she didn't
3 recall that her friend was raped by Donald Trump. When
4 testifying here, Ms. Birnbach put it a different way saying she
5 just wasn't tapping into that part of her brain. Whatever that
6 means. She wasn't tapping into that part of her brain. But
7 regardless of how she describes it, is it at all believable
8 that she forgets that the man winning the presidential
9 election, whom she hated, raped the friend she was watching the
10 election with? Is that at all believable?

11 Lisa Birnbach realized that was a problem so her
12 explanation that she didn't think about it until Ms. Carroll --
13 listen to this -- until Ms. Carroll gave her permission to
14 think about it. This is the testimony:

15 And that is because Ms. Carroll reminded you of it in
16 2019?

17 When E. Jean told me she was writing about it she gave
18 me permission to think about it again, and there are parts of
19 the phone call I remember, it is just a phone call I remember
20 vividly.

21 OK. How is that possible? That a person needs
22 permission to remember something, to be able to think about a
23 memory? That is not how thinking and remembering works. Is
24 that at all believable, that Lisa Birnbach didn't think about
25 her friend being raped by the presidential candidate during an

N585car4

Summation - Mr. Tacopina

1 election because she was not given permission to do so?

2 It is like fantasy world stuff. It is more likely
3 that it never came up in 2016 during that election because
4 E. Jean Carroll hadn't come up with her story yet for the book.
5 Lisa Birnbach says she went to a dinner on February 14, 2018 at
6 which Ms. Carroll gave her and Ms. Martin the blue envelopes
7 with the ribbon on them that was sealed and says: *Please read*
8 *them, but don't show these to anyone.*

9 (Continued on next page)

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N582Car5

Summation - Mr. Tacopina

1 MR. TACOPINA: Please read, but don't show to anyone,
2 the blue ribbons and whatnot.

3 Well, Ms. Birnbach claims she didn't even open the
4 envelope because something in the way she said it made her feel
5 like it might create responsibilities that she wasn't prepared
6 to have at that time, again, whatever that means.

7 "Did you open the envelope Ms. Birnbach?

8 "A No.

9 "So did you -- you didn't read what was inside?

10 "A No, I did not.

11 "Q Why not?

12 "Something in the way she said it made me feel like it
13 might -- it might create responsibilities that I wasn't
14 prepared to have at that time."

15 Just like, blah, just say things. She said it sounded
16 like it could be something heavy that she wasn't ready for,
17 Ms. Birnbach, in further testimony.

18 Mr. Brandt asked: "What do you mean by that?

19 "Well, if I had to read it but not tell anyone, you
20 know, it sounded just like it could be something heavy that I
21 wasn't ready for."

22 So you are a writer and your writer friend gives you
23 something to read. You don't know what it is, but because it
24 just sounded like something heavy, you didn't read it? Does
25 that make any sense? I keep asking that question because it's

N582Car5

Summation - Mr. Tacopina

1 an appropriate question. Does that make any sense?

2 This is supposed to be the same friend she trusted
3 enough over 20 years earlier to supposedly confide that she had
4 been raped. And even though Lisa Birnbach said she didn't know
5 what was in the envelope, you heard Ms. Martin tell you they
6 had a sense about what was in it.

7 Here's Ms. Martin's testimony on the famous envelope:

8 "And did you read the chapter after she gave it to you
9 that night?

10 "A I didn't read it right away, but we"—herself and Lisa
11 Birnbach—"had a sense of what it was about because we knew
12 what had happened, so."

13 Of course they knew what was in that envelope, ladies
14 and gentlemen. They knew. And they knew what was in that
15 envelope because E. Jean Carroll sent a text to Lisa Birnbach
16 admitting that. Do you remember this? This is Defense Exhibit
17 AG. It is in evidence.

18 E. Jean Carroll to Lisa Birnbach: "I told Megan that
19 I gave" -- Megan is the *New York Times* reporter. "I told Megan
20 that I gave you and Carol the chapter at our Carmine's dinner.
21 That neither of you read it. That I turned over the entire
22 book to you when I got sick, and we agreed you would publish it
23 when I croaked. And you never read it. And I copped to the
24 fact I sent you the proof of the excerpt before it was
25 published with instructions not to forward it, copy it, etc.

N582Car5

Summation - Mr. Tacopina

1 Are you eating birthday cake?"

2 Okay. So look at that message. What is E. Jean
3 Carroll telling us here? She told Ms. Birnbach -- and, by the
4 way, she said that if they had any changes to the excerpt, they
5 should let her know. Okay? But Ms. Birnbach and Ms. Martin
6 here are about to be interviewed by *The New York Times*
7 reporter, Ms. Twohey, Megan Twohey, and Ms. Carroll can't have
8 the reporter thinking that her friends got the story from her
9 book, so she gives Ms. Birnbach and Martin, wink, wink, that
10 neither of them read it. She says it twice. "Neither of you
11 read it" and "neither of you read it." Why does she have to
12 tell them they didn't read it? She is telling them that's the
13 answer. When you speak to the reporter, you didn't read the
14 book. You didn't read it.

15 Both Ms. Birnbach and Ms. Martin would have you
16 believe that they didn't read that chapter. Ms. Birnbach would
17 have you believe she had no idea what was even in the envelope,
18 just a big blue envelope with a ribbon on it that she never
19 opened.

20 But here Ms. Carroll admits they both read it and knew
21 exactly what it was, even though she first lied to the *New York*
22 *Times* reporter, Ms. Twohey, about that. She admits that they
23 both read it by telling them, remember, neither of you read it.
24 Twice she has to tell them that to remind them.

25 In fact, Ms. Carroll was still lying to you in this

N582Car5

Summation - Mr. Tacopina

1 courtroom about that. She actually claimed in front of you --
2 let me clear that thing. She claimed in front of you that she
3 doesn't know to this day if Ms. Martin or Ms. Birnbach actually
4 read the chapter, to this day, that's the testimony. "I don't
5 know if Carol or Lisa actually read the chapter.

6 "To this day?

7 "To this day."

8 Here they are testifying, her very close friends
9 testified in this courtroom for her about her story. She
10 doesn't know if they read the book still, still.

11 Lisa Birnbach went with Ms. Carroll to an event to
12 sell her book. Does that sound credible? Of course not. In
13 fact, they both acknowledge that they knew their names weren't
14 in the book. Both Ms. Martin and Ms. Birnbach acknowledge: We
15 know our names weren't in the book. Hmm? How did you know
16 that?

17 Well, why lie about reading the excerpt then. Why?
18 Let's ask the question, right? I'm saying it, but why lie
19 about reading the excerpt, why lie to Megan Twohey about it,
20 and why lie to you? Because they knew, they knew, that's where
21 they got the details of the story from. Not from remembering
22 some outcry 27 or 28 years ago that no one remembers the year
23 or the date, but because that never happened. That's where
24 they got the story from.

25 Or is Ms. Birnbach's story more believable? Remember,

N582Car5

Summation - Mr. Tacopina

1 Ms. Birnbach told you that she and Carol Martin were only work
2 friends in the mid 1990s.

3 "How would you describe your relationship with
4 Ms. Carroll in the mid '90s?

5 "We were -- we were more work friends. We became more
6 work friends, especially when the other couple split up and we
7 didn't have that social fabric in between us."

8 so they were work friends.

9 And of course they didn't become close friends until
10 six years later, around 2017. What else happened in 2017? Oh,
11 the book happened in 2017. That's when they became close
12 friends.

13 They would have you believe that Ms. Carroll's first
14 thought was to immediately call Ms. Birnbach 27 or 28 years
15 ago, her work friend. And remember what Ms. Birnbach
16 claimed -- I'm sorry, what Ms. Birnbach claimed that E. Jean
17 Carroll told her during that phone call? It was almost a
18 verbatim, verbatim account of her book excerpt on Donald Trump,
19 that phone call. Basically they want you to believe that
20 Ms. Carroll called a work friend, dictated a chapter of her
21 book over the phone over 20 years before it was written during
22 a three-minute call.

23 And what do I mean by that? Look what Ms. Birnbach
24 said the call was about. It took actually Ms. Birnbach longer
25 than three minutes to testify to the story she said happened on

N582Car5

Summation - Mr. Tacopina

1 that phone call. Are we really supposed to believe that
2 Ms. Carroll dictated this book, all these details, while she
3 was exasperated after being attacked or laughing and after she
4 said she had been sexually assaulted?

5 Look at what Ms. Birnbach claims to have remembered
6 about the phone call. E. Jean said that after work that day
7 she had gone to Bergdorf's to look around. Now, this is the
8 phone call, the outcry, the urgent phone call to her friend
9 that she had just been assaulted. "So I went to work" -- "to
10 Bergdorf's that day after work. I looked around. I was on my
11 way out. I believe it was a revolving door." You imagine that
12 in the phone call? My God, it was a revolving door that I saw.
13 And on the other side of the glass from her going in, as she
14 was going out, Donald Trump said to her, "Hey, you're the
15 advice lady," and she said, "You're the real estate guy." This
16 is allegedly what Ms. Birnbach remembers from the phone call,
17 the outcry phone call. This is the book.

18 But, anyway, let's go on. He said: You're so good at
19 advice, you are so smart, why don't you help me pick out a
20 present for a friend? So she thought she would -- it sounded
21 like a funny thing, this guy, who is famous, and she went back
22 to the store and tried to in my -- in my memory tried to show
23 him things; would she like a hat? And then she eventually gets
24 on to talk about what she says happened in the dressing room.

25 But imagine that's the phone call when you are

N582Car5

Summation - Mr. Tacopina

1 exasperated and you feel like you just got out of a fight for
2 your life and you called your friend to try and make it better,
3 and you start going into details. I think I was looking for a
4 hat. I think the door was a revolving door. You know, this is
5 what Lisa Birnbach says she remembers from 27 or 28 years ago.
6 That's not a phone call. That's the book.

7 And this is from the person who, by the way, she gave
8 all these details of that phone call to you in court after she
9 claims they were wiped from her memory bank for 21 years, gone,
10 that she didn't even remember it for 21 years. But yet now 28
11 years later she is back here remembering revolving door, hats
12 from that phone call. Do you think that's credible? Do you
13 think that's believable?

14 You know, she said this was a phone call she got from
15 Ms. Carroll. Again, that's the story in Ms. Carroll's book,
16 which she claims she didn't even read. And remember, this is
17 supposedly right after Ms. Carroll claimed she was attacked and
18 gives these sort of details, you know, borrow Ms. Kaplan's
19 words. Really? Really?

20 Consider this. Ms. Carroll's explanation as to why
21 she called Ms. Birnbach out of all people that day, which of
22 course never happened, but it was because she thought
23 Ms. Birnbach might believe it was hysterical that I had just
24 been attacked. That's why she called Ms. Birnbach.
25 Ms. Birnbach might have believed this was hysterical, and that

N582Car5

Summation - Mr. Tacopina

1 would have been okay.

2 When questioned about this, Ms. Carroll, what did she
3 say? She said it hadn't even occurred to her that she had been
4 raped until Ms. Birnbach told her. Didn't even occur to her
5 that she had been raped until Ms. Birnbach told her.

6 So this is the advice columnist who gives loads of
7 people advice about rape and gave them the New York City rape
8 hotline number. She didn't know she was raped, according to
9 her, until her friend told her. And her friend she was hoping
10 would think the whole thing was hysterical. Why would anyone
11 think that was hysterical if that really happened?

12 Now, watch this next thing, because this will put it
13 all together, how Ms. Martin and Ms. Birnbach got sucked into
14 this thing, and they never thought it was going to be here.
15 That's for sure. It's not as simple as they all came up with a
16 lie, as Ms. Kaplan said. It didn't start that way, that they
17 all came up with a lie.

18 Follow this. I will explain it slowly. This is
19 crucial to this case because it's how Ms. Birnbach and
20 Ms. Martin got dragged in here. And it's not everyone lying.
21 I don't think Cande Carroll's lying or Robbie Myers. I'm sure
22 she was a great writer. Who cares if she was a great writer?
23 Who cares? She left two years before Carroll got fired. I
24 don't think the Bergdorf witnesses are lying, or anyone else is
25 lying, everyone's lying. No. Ms. Carroll's story is

N582Car5

Summation - Mr. Tacopina

1 fabricated and made up.

2 Ms. Martin and Ms. Birnbach got sucked into something,
3 and I'm going to show you how it comes out through their
4 e-mails and text messages. And what's more plausible? That 27
5 or 28 years ago E. Jean Carroll called people she wasn't very
6 close with at the time to tell them—and no one else by the
7 way, no one else—that she was raped, who themselves didn't
8 tell anyone for 27 or 28 years, and one doesn't even remember
9 it, actually. Or—this is more plausible—that she told two
10 very, very close friends just a few years ago to go along with
11 the story, which at first was just meant to be a book, a book
12 and nothing more, that didn't identify them by name. They
13 weren't in the book by name.

14 They agreed because they hated Donald Trump with a
15 passion. You heard those words. Ms. Birnbach couldn't stop
16 thinking about him even when she was asleep, she said. She
17 hated him more than any person she has ever hated in her life.
18 So they hate him with a passion and never thought it would go
19 any further, never. Which sounds more believable? Remember,
20 Ms. Carroll never planned to file a lawsuit in this case until
21 George Conway, the democratic attorney, politically adverse to
22 Donald Trump, hated Donald Trump, got his hooks into
23 Ms. Carroll. Because up to that point she never planned on
24 filing a lawsuit. It was just about a book and selling books.

25 And, you know, because she first lied to you about

N582Car5

Summation - Mr. Tacopina

1 that and said Mr. Conway didn't tell her to seriously think
2 about suing Donald Trump, here's the first question about this.
3 This is the beginning of it all coming together: "Did
4 Mr. Conway tell you that you should seriously think about suing
5 Donald Trump?" She told me no. She told you no.

6 But she was asked about this previously under oath and
7 she got caught and changed her answer. This is from her
8 deposition, as you see up here, from six months earlier.

9 "Q At what point did you decide to file a lawsuit against the
10 defendant?

11 "A Well, wherever I went after the story went, wherever I went
12 after the story went, people said, Are you going to sue him?
13 Are you going to sue him? And I would say, no, no, no. I'm
14 not going to do it. I'm just not. And then I had a
15 conversation with someone who knew the ins and outs, and an
16 actual lawyer, and he said you should really think about -- you
17 should really seriously think about this."

18 "Do you recall giving that testimony?

19 "Q Was that true? Was that testimony true?

20 "A Yes. George said you should seriously think about this
21 after he laid out the various ways, that's correct."

22 George is George Conway. Arch enemy of Donald Trump,
23 lawyer, democratic party lawyer, who convinced her to bring a
24 lawsuit. So this wasn't even in the plans.

25 And then you see there is a dinner with lawyers and

N582Car5

Summation - Mr. Tacopina

1 Ms. Martin and Ms. Birnbach and Ms. Carroll having a dinner
2 together, or pizza, whatever they had together, two witnesses
3 and Ms. Carroll and lawyers having a dinner. That's how we got
4 here. And that's how Lisa Birnbach and Carol Martin got here.
5 Because, keep in mind, they didn't even want their names to be
6 part of the book at first. They didn't want their names to be
7 part of the book. Lisa Birnbach told you they were not even
8 named in the *New York* magazine excerpt, in *The Cut*. Only
9 after, when the story picked up traction, as we all knew it
10 would, only after that did they have to be convinced to go
11 along with it by name publicly. Because for the story to have
12 any credibility, she had to name the two people she claimed she
13 told.

14 Look at this very telling testimony piece right here.
15 702, please okay. This is Ms. Birnbach's testimony. "I don't
16 remember the date, but it was not long after. E. Jean invited
17 Carol and me to lunch to meet a few reporters from *The New York*
18 *Times* who wanted to write about what happened to her, and over
19 the course of lunch, Carol and I were persuaded that it would
20 be more effective" for the story of course "if we were real
21 people and not anonymous sources." And of course the Carol she
22 is referring to is Carol Martin.

23 So think about that. They had to be persuaded to come
24 out, not to be anonymous sources, which first what they agreed
25 to, yeah, we will be anonymous sources, put us in your book,

N582Car5

Summation - Mr. Tacopina

1 you don't have to call us by name, just put us in your book and
2 call it two people. Sure. We hate Trump, too. You told us.

3 Then they had to be persuaded to come out and, again,
4 this is just to the press now. We are still just talking about
5 the press. You saw this play out in Carol Martin's messages,
6 how this whole story came together, and those same messages
7 also show it was never meant to get this far in a courtroom
8 under oath, never.

9 Here. She told you her messages were never supposed
10 to be -- she said, "I don't understand why they are being
11 offered in evidence." She didn't want that to happen,
12 Ms. Martin. She then said, okay.

13 Suffice it to say, I questioned her, "You did not
14 expect at the time you were writing those e-mails for those to
15 see the inside of a courtroom."

16 "No, certainly not."

17 No, of course not. Of course not.

18 And the first message in that category is her scheming
19 e-mail with Ms. Carroll from September 23, 2017. Folks, look
20 at this e-mail. Okay? This is PX 122. This is where it all
21 starts.

22 Donald Trump is now president. Okay? Ms. Martin says
23 in this e-mail, "I don't know much about Namibia, but I know it
24 ain't Nambia as Orange Crush"—that's a derogatory term for
25 Trump—"called it at the UN this week. This has to stop. As

N582Car5

Summation - Mr. Tacopina

1 soon as we are both well enough to scheme, we must do our
2 patriotic duty."

3 Ms. Carroll replies to that e-mail, all caps,
4 "Totally!!! I have something special for you when we meet" in
5 the context of this exchange. She is talking about her book,
6 the idea for her book, because that comes next.

7 But wait. Now, I asked Ms. Carroll about this. Take
8 all these things I did here off.

9 I asked Ms. Carroll about this, this e-mail, and what
10 she claimed and what was said to her, and Ms. Carroll said,
11 pshew, no idea what that was about. She can remember directly
12 that conversation about revolving doors, hats from 27, 28 years
13 ago, did they have tea, but she has no idea what this e-mail
14 from five years ago is about, no idea.

15 Of course, they couldn't let that happen twice. That
16 could not happen twice. So when Carol Martin was asked about
17 it, she said, oh, the word scheme we use all the time. Well,
18 you know that's not true. There is not one other e-mail in
19 evidence in this case that has the word scheme in it. Not one
20 other.

21 And then I say, so, Ms. Martin, tell us what scheme
22 means.

23 "Q Do you know the definition of scheme or do you know what
24 the definition of scheme is?

25 "A I think so.

N582Car5

Summation - Mr. Tacopina

1 "What do you think it is.

2 "It's a plan, to put together a plan."

3 I said: "Okay.

4 She said: "That's how I think of scheme."

5 Well, we all know that's not what the word scheme
6 means. Scheme is a secret, nefarious plan. You know what?
7 Better. Let's try that in a real sentence in everyday life.
8 Let's use Ms. Carroll's definition of scheme.

9 Let's scheme to go get pizza.

10 Let's scheme to go to the movies together.

11 Let's scheme to go to the library.

12 Let's make a scheme to go see the Yankee game.

13 No. We don't talk like that. we don't use the word
14 scheme like that. Scheme means exactly what it means, what you
15 think it means. It's a scheme. We have to scheme to do our
16 patriotic duty. We have to stop him. This is all in the
17 e-mail. Put that e-mail back up, please.

18 And when asked -- I asked Ms. Martin: What was meant
19 by Ms. Carroll saying "I have something special for you"?
20 Remember when I asked Ms. Carroll that, she had no idea what
21 she meant by that. When I asked Ms. Martin that, they couldn't
22 let that happen again either, and it was Ms. Martin's response
23 that it was a stuffed squirrel. That's what I think of scheme.

24 "And to you this something special was a stuffed
25 squirrel?"

N582Car5

Summation - Mr. Tacopina

1 "Well, I believe so."

2 Okay. Obviously that doesn't make sense.

3 By the way, which is why you heard Ms. Martin tell you
4 she never said anything about a stuffed squirrel before her
5 trial testimony. But put this message back up for a second.
6 Look at this message in context, folks. This is the beginning.
7 She is watching Trump. She -- "this has to stop," Carol Martin
8 says, "has to stop. When we are both well enough, we have to
9 scheme. We must do our patriotic duty." Ms. Carroll says, in
10 all caps—she had to make that cap button on her computer go
11 down—Totally!!! I have a stuffed squirrel for you.

12 Does anyone actually think that was the next line? We
13 have to do our patriotic duty. We have to scheme. We have to
14 stop them. Totally, and I have a stuffed squirrel for you.
15 That's ridiculous.

16 The "I have something for you" had to do with the
17 contents of this e-mail exchange. So Ms. Carroll, again,
18 didn't want you to see her messages because they reveal the
19 scheme, and that's why Ms. Martin learned -- when she did learn
20 her messages were going to be subpoenaed in a lawsuit, she sent
21 this text message to Ms. Carroll, folks. Ms. Martin to
22 Ms. Carroll: "No more chats and texts til further notice."

23 Think about that for a second. That's Crip talk.
24 That's Crip talk. That's not the way people talk who have
25 nothing to hide. That's not the way people talk who don't want

N582Car5

Summation - Mr. Tacopina

1 their schemes revealed. Why -- if we're all just telling the
2 truth and there's no schemes, no plans, why no more chats and
3 texts until further notice? Why, as Ms. Martin said, we
4 definitely have to get together, me, you and Lisa, before I get
5 deposed, definitely.

6 And one of the biggest reveals in this case, I present
7 to you now, is Defense Exhibit ER. It's a text message from
8 Ms. Martin to her friend on November 30, 2021. Take the
9 highlight off, please. This message, this message is lethal to
10 them, lethal to their case. It exposes what's exactly behind
11 the curtain. It shows you proof that this was made up. This
12 is lethal.

13 I'm going to read you the message first. "Sitting in
14 traffic again" -- now this is just a response to E. Jean's
15 text. This is Ms. Carroll to her friend Pat. "Just read your
16 response to E. Jean's texts. You are not a cynical bitch." So
17 apparently Pat was also commenting about Ms. Carroll's behavior
18 and conduct. "You are not a cynical bitch. You tell the
19 truth. I told you, I'm over it. Just don't know how to thread
20 the needle. Kind of hoping they cancel the court date, which
21 could easily happen before the end of next week, right? It's
22 too hyperbolic. Too much celebratory stuff over something that
23 hasn't really happened."

24 Next sentence from that, "She said next she's going to
25 sue T"—Trump—"when Adult Victims of Rape law is passed in New

N582Car5

Summation - Mr. Tacopina

1 York State or something. WTF." "What the fuck," that's what
2 that means. "This is a defamation case and the DOJ oversight
3 or something. It's gone to another level, and not something I
4 can relate to. For her, sadly, I think this quest has become a
5 lifestyle. Seriously."

6 That's Carol Martin talking about E. Jean Carroll to
7 her good friend.

8 Now, look at what Ms. Martin is saying here. So her
9 very close friend is going to sue Donald Trump for rape, and
10 she thinks it's gone to another level and isn't something she
11 can relate to? I mean, if Ms. Martin were a real outcry
12 witness from 27 years ago or 8 years, whatever it is, who was
13 actually told decades earlier that her close friend was raped,
14 how is that something she can't relate to? What do you mean
15 she can't relate to it? Of course she should be able to relate
16 to it, if her friend was really raped.

17 How could she even write that, Ms. Martin, if she
18 believed, if she knew that the story was true, that she really
19 got a call or a visit to the house from Ms. Carroll 27 years
20 ago, whatever it is? How could she even write, That's
21 something I can't relate to? That, they got caught.
22 Ms. Martin talked to her friend, never thought this message,
23 because E. Jean Carroll wasn't on this, would ever see this
24 courtroom.

25 And the answer is right in the message how she could

N582Car5

Summation - Mr. Tacopina

1 even write it. She is hoping this all gets canceled, the court
2 date, the case. She is hoping it gets canceled because there
3 is too much celebratory stuff, you know, all the parties that
4 we're having for Ms. Carroll, too much celebratory stuff for
5 something that hasn't really happened.

6 This is in evidence. You get to look at this a
7 hundred times. I want to leave this up for an hour and let you
8 look at it, but I'm not going to do that because I have no
9 time. But you get to take this back with you.

10 The next sentence puts that first line, too much
11 celebratory stuff over something that hasn't really happened.
12 She said she is going to sue T when Adult Victims of Rape law
13 is passed or something. What the fuck? I'm sorry to use those
14 words. This is the message. What the fuck? She is suing for
15 rape? What the fuck, over something that hasn't really
16 happened? This has gone way too far now. She doesn't even
17 know I'm -- I told you I'm over it. I just don't know how to
18 thread the needle, Ms. Martin is saying. She doesn't know how
19 to thread the needle.

20 First she is all in, yeah, let's get Trump. Write
21 your book. We will be your outcry witness anonymously. No
22 problem. Anonymous. Then they get persuaded to tell *The New*
23 *York Times* their names because really the story doesn't sound
24 credible with two anonymous outcry witnesses. We might as well
25 have a hundred outcry witnesses who are all anonymous. They

N582Car5

Summation - Mr. Tacopina

1 needed names. So then they get persuaded, as you saw in the
2 message, to tell *The New York Times* their names. That is
3 just -- just is an article, and Trump is Trump, Trump.

4 Oh, no. Then this happens, then there is a lawsuit.
5 WTF. I'm out. I didn't sign up for this. I can't relate to
6 this, over something that hasn't really happened. Game, set,
7 and match. Game, set, and match. This message is death.

8 Do you understand what you are seeing here? That
9 Ms. Martin is confiding with her friend in what she thought was
10 a private text message that they are celebrating over something
11 that isn't real? And she is going to sue him for rape? WTF?
12 I can't relate to that. Why? Why? If it really happened, why
13 WTF, she is suing him for rape? He raped her, right? Why?
14 Why WTF? Why if something hasn't really happened? Why I can't
15 relate to it?

16 They got caught, and that's why Ms. Carroll says why
17 are my messages going into evidence? She got stuck into this
18 thing that Ms. Carroll took to different levels that they never
19 signed up for. So she is on this train from the beginning and
20 the ends justifies the means. It's Donald Trump. Don't worry
21 about the truth. Don't worry about the facts. Don't worry
22 about what hasn't happened. Don't worry about what hasn't
23 really happened. It's Donald Trump.

24 But Carol Martin felt comfortable only going so far.
25 In the message she wrote, she is going to sue. When the rape

N582Car5

Summation - Mr. Tacopina

1 law is passed, she is going to sue him for rape. WTF. She was
2 along for the ride when it was a book. Even a defamation case.
3 But a rape accusation was going to another level, something she
4 couldn't relate to. So in her own words, it was over. I'm not
5 doing that.

6 You saw she was different on the stand than E. Jean
7 Carroll and Lisa Birnbach, who were both trying to sell books.
8 Ms. Martin was standing by her close friend, but she did not
9 want to be here. I think that was pretty obvious. That's why
10 she was venting to another friend about Ms. Carroll turning the
11 entire transaction into a lifestyle, transaction she said in
12 the message, turning another transaction into -- turning this
13 transaction into a lifestyle. Is that a word anyone would ever
14 use to describe a rape? A transaction? Transaction into a
15 lifestyle.

16 You saw that lifestyle for yourself—the podcast,
17 television appearances, you are fascinating to talk to, TV
18 appearances again, testimony in court when she said "this is my
19 moment."

20 Ms. Martin even called Ms. Carroll a narcissist that
21 was acting scary. Think about that. It's a hell of a thing to
22 call your friend who is a true rape victim a narcissist who is
23 acting scary? Ms. Carroll didn't want to admit that in this
24 courtroom, but the messages were the messages. She called
25 Ms. Carroll a narcissist who was acting scary? That doesn't

N582Car5

Summation - Mr. Tacopina

1 jibe with being a real rape victim.

2 But after going on the record and getting subpoenaed
3 for her messages, Ms. Martin couldn't thread the needle and get
4 out. She was in too deep. Look at what -- we don't need that
5 anymore.

6 And even though Ms. Martin continued to toe the line
7 for her friend, she's indirectly shared with you the truth
8 through her messages that she never thought would see the light
9 of day, ever. And what's telling about those messages?
10 Especially, especially the ones you just saw between her and
11 her friend, and especially the ones between Ms. Carroll and
12 Ms. Martin. There were a host of messages between Ms. Carroll
13 and Ms. Martin, text messages, e-mails. They called Donald
14 Trump every name in the book, every name in the book.

15 I asked: In any of those messages between just the
16 two of you, Ms. Carroll and Ms. Martin, just the two of you,
17 never thinking those would ever go anywhere, did you ever
18 allude to him as a rapist? No, I don't believe so.

19 I mean, they couldn't say worse things about this guy.
20 That's how they felt. They called him everything, but not a
21 rapist.

22 There is no evidence, Ms. Kaplan argued, no evidence
23 of conspiracy? No documents? What did I just go through with
24 you? The scheme e-mail. No texts, no chats until further
25 notice, nothing in writing. This is something that hasn't

N582Car5

Summation - Mr. Tacopina

1 really happened? There is no documents to support the
2 conspiracy?

3 Ms. Kaplan argued that you have to believe that a
4 conspiracy -- if this were a conspiracy, everyone lied,
5 everyone lied. That's not true. I'm not saying any of those
6 other people in that big chart lied. Ms. Carroll made up a
7 story ripped off the pages of *Law & Order*, made up a story to
8 sell a book. Ms. Martin and Ms. Birnbach went along as the
9 anonymous sources, and you just saw what happened. They got
10 sucked in, and you heard Ms. Martin say how it all played out.
11 Then they got stuck here. Now what are they going to do?

12 And then, of course, the question, they post the
13 transcript of Ms. Birnbach and Ms. Martin saying, oh, you hate
14 Donald Trump so much, but would you ever perjure yourselves for
15 him? What answer do you think you were going to get for that?
16 What answer? Do you think anyone who would get stuck in a
17 situation like this and has to lie would say, yes, I would lie.
18 Shocking that answer was no. Wow.

19 So look, all these messages, they never thought they
20 would see the inside of a courtroom. You know, even that one
21 message they put up about Ms. Martin referring to a simple chat
22 25 years ago, simple chat is certainly not a rape conversation,
23 and she didn't even know what that simple chat was referring
24 to. They could put that transcript back up, maybe, when they
25 stand up again. But she is saying, I don't know, I'm

N582Car5

Summation - Mr. Tacopina

1 guessing -- I was referring to the conversation with
2 Ms. Carroll about the rape. She called it a simple chat.
3 There is nothing simple about a chat when your friend tells you
4 I have been raped by Donald Trump. It's not a simple chat.
5 She wasn't referring to that, and she didn't even say she was
6 referring to that.

7 They certainly didn't want you to see those messages
8 because they let you peek behind the curtain hiding their
9 scheme.

10 Folks, I'm coming to an end, but before I do, I want
11 to bring this all together for you before I sit down. Just a
12 couple of quick slides to give you some context to the stuff
13 I've been talking about for two hours.

14 One is a timeline slide. It is a sort of a chronology
15 of events.

16 The first thing that happens is Donald Trump is
17 elected. Now, no story's ever told, anything about Donald
18 Trump, Bergdorf Goodman's, or anything like that, but Donald
19 Trump is elected in 2016.

20 Then what happens next? 2017, scheming e-mail. We
21 must do our patriotic duty. Totally. I have something for
22 you.

23 What happens? Something for you. A month later. She
24 begins her road trip, Ms. Carroll, to start writing her book.

25 What happens next? Two years later, the book is

N582Car5

Summation - Mr. Tacopina

1 ready, book excerpt is published in *The Cut*, *New York* magazine
2 publication.

3 Same month, the start of the media exposure, the
4 parties, the lifestyle, it all begins.

5 2019, Ms. Birnbach and Ms. Martin are interviewed by
6 *The New York Times*, and the message we -- regarding that
7 message we just talked about here, how they had to be
8 persuaded.

9 2019, July, the book is published.

10 What happens next? Mid July 2019, George Conway
11 recommends litigation, that she litigate.

12 MS. KAPLAN: Objection, your Honor.

13 MR. TACOPINA: November --

14 THE COURT: Just a minute.

15 MR. TACOPINA: Oh, sorry, your Honor.

16 THE COURT: Objection sustained. The jury will
17 disregard the sentence regarding Mr. Conway.

18 MR. TACOPINA: No, your Honor. I simply said that
19 Mr. Conway recommended she sue Donald Trump, litigates. That's
20 all I said.

21 THE COURT: That's what I have just stricken and told
22 them to disregard.

23 MR. TACOPINA: Oh, okay.

24 Anyway, you heard the testimony, you saw the testimony
25 about what George Conway said to Ms. Carroll. There was

N582Car5

Summation - Mr. Tacopina

1 testimony in the summation we discussed it.

2 MS. KAPLAN: Your Honor?

3 THE COURT: I'm sorry.

4 MS. KAPLAN: Excuse me for interrupting. Can they
5 take down the slide that has what your Honor just told them to
6 disregard?

7 THE COURT: Yes.

8 MR. TACOPINA: Can you take that one piece down? If
9 it's not doable, let me know, please.

10 THE COURT: Publish the slide to me alone for a
11 moment, the last one.

12 MR. TACOPINA: So, your Honor, the objectionable --

13 THE COURT: This isn't the last slide. This is not
14 what was on the screen that you asked him to take down.

15 MR. TACOPINA: No, I know. We removed it.

16 THE COURT: I know. I want to see what was removed.

17 MR. TACOPINA: Oh. You have to put it back in. Do we
18 have a paper piece we can give to the Court?

19 THE COURT: I want to be sure I was right in
20 sustaining that objection.

21 MR. TACOPINA: I know why Ms. Kaplan objected. It was
22 part right and part wrong, but that's -- there you go, your
23 Honor.

24 THE COURT: That's exactly what I thought --

25 MR. TACOPINA: Yeah, yeah, yeah.

N582Car5

Summation - Mr. Tacopina

1 THE COURT: -- and therefore it is out.

2 MR. TACOPINA: Right. So that's why I removed it.

3 THE COURT: Okay.

4 MR. TACOPINA: Now remove it again, please.

5 There you go. Can you put that back for the jury now?

6 Ms. Kaplan, we are good now, right?

7 MS. KAPLAN: Yeah.

8 MR. TACOPINA: Okay.

9 The jury has it now? Okay.

10 Okay. 2019, the first lawsuit is filed.

11 2019 November, the ongoing media exposure, more
12 parties and celebrations.

13 November of 2021, two years later, Ms. Martin's text
14 regarding—can we slow it down a little bit so I can actually
15 get it, thank you—Ms. Martin's text regarding too much
16 celebratory stuff over something that hasn't really happened;
17 going to sue Trump for rape, WTF; it's gone to another level,
18 something I can't relate to; and four it has become a
19 lifestyle. That was that text we just went through.

20 Go ahead. August of 2022, Martin texting about
21 getting together with Ms. Carroll and Ms. Birnbach before her
22 deposition.

23 And November of 2022, the lawsuit you all are sitting
24 in judgment of here today.

25 Before all that happened, go ahead, scooting all the

N582Car5

Summation - Mr. Tacopina

1 way back to 2012, *Law & Order SVU* episode that Ms. Carroll --

2 MS. KAPLAN: Objection, your Honor.

3 THE COURT: Sustained. The jury will disregard that.

4 MR. TACOPINA: Okay. You heard Ms. Carroll's
5 testimony on it, folks.

6 Put the slide down. You can take the slide down.

7 You heard her testimony on it. She was aware of that
8 episode. That's her testimony on trial before you.

9 THE COURT: Sustained.

10 MR. TACOPINA: That's the testimony, your Honor.

11 THE COURT: That's your version.

12 MR. TACOPINA: No. It's the transcript's version. We
13 can put that up, if you would like.

14 THE COURT: Counsel, one more word.

15 MR. TACOPINA: Yes, sir.

16 Ladies and gentlemen, I'm done -- well, there is one
17 other thing. Let me put up this for you. I'm trying to
18 summarize all this in a slide for you, but look at all the
19 reasons to disbelieve an unbelievable story.

20 No one present in an upscale store. Just pick and
21 choose.

22 Open and unlocked dressing room door.

23 Donald Trump trying on women's lingerie.

24 Impossibility of the physical act.

25 No one speaks about it for over 20 years.

N582Car5

Summation - Mr. Tacopina

1 No police report.

2 No diary entries.

3 No medical/psychological corroboration.

4 Massive *Apprentice* fan.

5 Joking on Facebook about having sex with Donald Trump
6 for money.

7 The Instagram photo of the hideous men's walking tour
8 with the big gleaming style next to Donald Trump.

9 The book motive.

10 The political hatred which came out loud and clear.

11 The status and the lifestyle.

12 Anderson Cooper video. Take that for what it's worth.

13 The scheming e-mail.

14 The no more chats, no more text messages.

15 Hasn't really happened.

16 Rape, WTF.

17 Never alluded to Donald Trump as a rapist in messages.

18 And again --

19 MS. KAPLAN: Objection, your Honor.

20 THE COURT: Sustained.

21 MR. TACOPINA: Move on.

22 THE COURT: That was inappropriate, Mr. Tacopina.

23 MR. TACOPINA: Okay, your Honor. I apologize. But I
24 think I am misunderstanding your ruling, but I apologize, but
25 we are moving on.

N582Car5

Summation - Mr. Tacopina

1 Ladies and gentlemen, I am done reviewing the
2 evidence, and I will submit it to you. I will submit it to
3 you.

4 I sit down soon, and plaintiff's counsel gets a chance
5 to come up again and do another summation or rebuttal
6 summation. And they go first and they go last not because we
7 lost a coin toss, it's just the way the law works, because they
8 have the burden of proving this case. That burden remains on
9 them in this courtroom the entire time. It's not a burden you
10 can carry, not on this evidence, not with these facts, not by a
11 long shot.

12 You know, facts are stubborn things, and whatever may
13 be our wishes, our inclinations, the dictates of our passions,
14 they cannot alter the state of facts in evidence. The facts in
15 evidence made plain here that E. Jean Carroll's story is not
16 worthy of your belief, not even close. Her story—and it's
17 just that, a story—is not true, she was not raped at Bergdorf
18 Goodman's. She was not defamed by being called out on making
19 up that story.

20 And I will say it again, this jury is blessed with an
21 abundance of street smarts, an abundance, and we know reality
22 from fiction. What she is asking you to do is not just to make
23 a finding in her favor here, folks, in a civil case, just make
24 a finding. What she is asking you to do is to condemn another
25 citizen as a rapist, the worst thing you could ever be called.

N582Car5

Summation - Mr. Tacopina

1 She is asking you to do it on evidence that couldn't stand up
2 in any credible, objective fact assessment that would never
3 make it through a police investigation in a million years. She
4 is asking you, on this evidence, to do that.

5 To condemn someone as a rapist is a decision you would
6 have to live with for the rest of your lives. Don't let her
7 throw that burden on you. Don't let her throw her burden on
8 you to have to carry forever. You know this didn't happen,
9 that Donald Trump raped E. Jean Carroll in a Bergdorf Goodman
10 changing room. You know it didn't happen.

11 You know, Ms. Kaplan said you don't really have to
12 believe her that much because it's not a criminal case only a
13 civil case, just 50, just over 50 percent you have to believe
14 her, over 50 percent. That's all. Boy, is that very telling.
15 They know. They know this case. You don't have to believe her
16 that much, just 51 percent.

17 You believe her or you don't believe her. This is
18 condemning someone as a rapist. You believe her or you don't
19 believe her, not just a little bit believe her.

20 This is an absolutely outrageous case. It's an
21 outrageous case. She had her political reasons, her desire for
22 status, her motivations to sell the book, fabricate the story,
23 her two friends. We just saw what happened, how they got
24 sucked into this. But one motivation that should drive all in
25 this courtroom is adherence to the rule of law. It's

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Summation - Mr. Tacopina

1 everything for us.

2 You know, ladies and gentlemen, Judge Kaplan is the
3 judge here. His name is on the courtroom door. But when it
4 comes to the facts in this case, this is your courtroom. This
5 is your courtroom. And when it comes to deciding if what was
6 done here was right, this is your courtroom. When it comes to
7 deciding who to believe or not believe, this is your courtroom.
8 No one else's courtroom but your courtroom. You, and you
9 alone, are the ones empowered in that regard to make sure that
10 the rule of law is upheld, just you. Not some journalist --
11 and I know you don't read the press. Not some journalist who
12 comes in for a day during openings or summations and writes an
13 article like they have been sitting here like you have been,
14 attentive, with notepads, writing, listening to every single
15 word.

16 MS. KAPLAN: Objection, your Honor.

17 THE COURT: What's the objection?

18 MS. KAPLAN: Talking about journalists, which is not
19 about the case in any way, shape, or form.

20 THE COURT: Overruled.

21 MR. TACOPINA: You know, we can afford certain things,
22 but one thing I ask you is can we afford to sweep away the law
23 because we don't like the defendant? Shall we say that the law
24 should be ignored because the defendant is unlikeable? If
25 that's the case, then there is no longer the need for the law.

N582Car5

Summation - Mr. Tacopina

1 There is no longer the need. If the law is not strong enough
2 to protect all of our citizens equally, including the most
3 unpopular, then it deserves the contempt of all.

4 To your candor, to your integrity, I submit the
5 defendant, Donald J. Trump. I ask you all to please—to
6 please—have the courage to do what is right here.

7 Thank you very much.

8 THE COURT: Thank you, Mr. Tacopina.

9 Members of the jury, we will take 20 minutes.

10 Counsel remain.

11 (Jury not present)

12 THE COURT: Be seated, folks.

13 I'm referring to the online transcript, at page 149 of
14 the draft transcript into 150, and I want to make sure that the
15 record is clear as to what was happening. I will pick up in
16 the realtime transcript at the point where Mr. Tacopina said
17 "Anderson Cooper video, take that for what it's worth; the
18 scheming e-mail; the no more chats, no more text messages;
19 hasn't really happened; rape, WTF; never alluded to Donald
20 Trump as a rapist in messages."

21 Right after that, still attributed to Mr. Tacopina
22 appear the words "and again --" followed by an attribution to
23 Ms. Kaplan "objection, your Honor," which I sustained.

24 Now, what the transcript was never intended to capture
25 and could not capture is what happened between the words

N582Car5

Summation - Mr. Tacopina

1 "Donald Trump is a rapist in messages" and the objection.

2 Defense counsel, not inappropriately in general, has
3 been using a PowerPoint deck to go along with the summation,
4 and right at that point, either a new slide or a new version of
5 a slide was projected on the screen in front of the jury. And
6 what I remember singularly about it is a heavy red line at the
7 top of the slide that ran from the right to the left with an
8 arrow on the left and some words on the left or some indication
9 of something else.

10 Now, that can't appear in the transcript. And I want
11 to have that slide printed out and marked as Court Exhibit C.
12 And if counsel will confer with the reporter with respect to
13 what, if anything, was said after "rapist in messages" and the
14 imposition of Ms. Kaplan's objection, so that hopefully we can
15 have an agreed version of what, if anything, was said in there
16 before the objection is recorded, I would appreciate it, and I
17 hope you can agree on it, and if you can't, I will hear you on
18 it, not before we go on, but later in the day, because the
19 transcript, as it stands, could not possibly have captured the
20 multimedia aspect of this presentation.

21 Any problem with that by either side, Ms. Carroll?

22 MS. KAPLAN: We will endeavor to do that, your Honor.

23 THE COURT: Mr. Tacopina?

24 MR. TACOPINA: Sure, your Honor.

25 THE COURT: Pardon?

N582Car5

Summation - Mr. Tacopina

1 MR. TACOPINA: Yes.

2 THE COURT: All right, fine.

3 MS. KAPLAN: Can I raise one more issue, your Honor?

4 THE COURT: Pardon?

5 MS. KAPLAN: Can I raise one more issue?

6 THE COURT: Yes.

7 MS. KAPLAN: We are going to take a look. We may want
8 to amend the instruction on some of these issues based on what
9 was said, but we will come back to you at the end of the day if
10 we think anything needs to be changed on the charge.

11 THE COURT: Well, we will deal with that if, as, and
12 when it is done.

13 MR. TACOPINA: Your Honor, just in response to that,
14 then, being that we are discussing this, first of all, I would
15 point out these slides were given to counsel with the exact
16 things that were shown, given to counsel before my summation,
17 and they were given time to look through them before we
18 started. So there was no objection there. There actually was
19 an objection to one which we removed, but there was no
20 objection to what was shown to the jury. And then, your Honor,
21 again, please understand I'm not -- you know how much I respect
22 you. I'm not trying to be disrespectful. I know you are
23 smiling, but you do you know I do, and I wasn't trying to be
24 disrespectful to you.

25 THE COURT: I don't think you were, Mr. Tacopina.

N582Car5

Summation - Mr. Tacopina

1 MR. TACOPINA: Okay, okay, okay.

2 THE COURT: You are a heck of a good lawyer and you
3 are doing absolutely what you think is the best you can do for
4 your client, and every now and then judges and lawyers in the
5 best of good faith disagree with each other.

6 MR. TACOPINA: Right. I think this one you got wrong,
7 though, I'm just saying, with all respect, because I did say --
8 what I was questioning -- as a matter of fact, when I brought
9 that e-mail before the jury, I actually gave the instruction
10 that you are going to be giving later about it's not being
11 offered for the truth of the matter, the *Law & Order* e-mail not
12 being offered for the truth of the matter, not proof of
13 anything other than Ms. Carroll's state of mind, but I then
14 cited her trial testimony --

15 THE COURT: Yes, I understood that.

16 MR. TACOPINA: -- which is -- but I thought you said I
17 misstated it.

18 THE COURT: And to be frank between us here, while we
19 are being frank, the quote you took from the trial testimony
20 omits the question and answer or two before what you quoted
21 which put what she said, and I concede it could be argued
22 either way, potentially puts what she said in an entirely
23 different light than you argued. That's the point.

24 MR. TACOPINA: Okay. But the thing was, your Honor, I
25 didn't go into -- the e-mail was coming up next. I haven't

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Summation - Mr. Tacopina

1 asked her about the e-mail at that point, just so your Honor
2 knows.

3 THE COURT: Look, I know precisely. You are referring
4 to the sidebar yesterday?

5 MR. TACOPINA: No, sir. I'm saying in the trial
6 transcript I'm looking at it, nothing happened before. There
7 was no preceding question. I asked one question.

8 THE COURT: There was several days of trial before.

9 MR. TACOPINA: No, your Honor, on *Law & Order*. I'm
10 talking about on *Law & Order*, on this episode, I used the word
11 "law," whoo, everyone jumped up. We had a sidebar. I didn't
12 even get the question out. This was my first question to
13 Ms. Carroll that I read, and I showed the slide for it, and it
14 was simply her acknowledging. Then I went into the e-mail.

15 THE COURT: What was the page of the trial transcript
16 of the --

17 MR. TACOPINA: Of the sidebar.

18 THE COURT: No. I am asking what page of the
19 transcript did the quote come from that you put up.

20 MR. TACOPINA: 575.

21 THE COURT: All right. Give me a moment.

22 MR. TACOPINA: All right.

23 (Pause)

24 THE COURT: Mr. Tacopina, at page 571, line 23, you
25 said, "Ms. Carroll, as you sit here today, you know there was a

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Summation - Mr. Tacopina

1 *Law & Order* episode that features a woman," there was an
2 objection, and then we went to sidebar.

3 MR. TACOPINA: Right.

4 THE COURT: You put it to -- and obviously she is
5 prepared, all the witnesses are prepared, the exhibits were
6 exchanged in advance of trial. And so when you then, after the
7 sidebar, say to her, "So my initial question was, as you sit
8 here today, you know that there was a *Law & Order* episode from
9 2012 that featured a woman getting raped in the Bergdorf
10 Goodman lingerie dressing room, correct?" and she answered "I
11 am aware, yes," one interpretation of that is the one that you
12 are advancing, that she was aware that there in fact was such
13 an episode and what its contents was. An alternative
14 explanation of that is that she is aware of an e-mail in which
15 somebody reported that to her, which is not in for the truth of
16 the content. That's the point. And I let you go quite far
17 with it. I didn't interrupt you. There was no objection.
18 That's all fine. But I'm aware that your argument was somewhat
19 selective about the context in which you presented that
20 excerpt, or at least it could be argued that way.

21 MR. TACOPINA: That's fair, your Honor, but it is
22 argument. That's why I was arguing my -- my are
23 interpretation.

24 THE COURT: I understand it's argument.

25 MR. TACOPINA: Good. We're good. We're good.

N582Car5

Summation - Mr. Tacopina

1 THE COURT: I just want to let you know, everybody,
2 that I do follow along here.

3 MR. TACOPINA: I know you do.

4 MS. KAPLAN: Your Honor, if I may just say --

5 MR. TACOPINA: And I'm proud of you.

6 MS. KAPLAN: I apologize, your Honor.

7 THE COURT: Some day, in the greatest traditions of
8 the bar, the three of us will have a drink, okay? Maybe.

9 MS. KAPLAN: Just one quick thing, just so the record
10 is clear, because there was a statement made about our review
11 of the Power Point. I'm not attributing any bad faith on the
12 other side. We gave them our PowerPoint several minutes -- for
13 a while before I stood up to speak. We got a—what do you call
14 that thing that goes to the computer; God, I'm so old—thumb
15 drive of theirs, your Honor, that we had to look at their
16 computer right here just before. So there was no waiver of any
17 argument, your Honor. We didn't see the animation that you
18 kind of saw during that piece at the very end.

19 THE COURT: And I suspect I'm right that all of the
20 slide decks on both sides were prepared before the ruling was
21 made this morning on the *Law & Order* episode.

22 MR. TACOPINA: Correct.

23 THE COURT: So I take that into account.

24 Okay. See you in a few minutes.

25 (Recess)

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Rebuttal - Mr. Ferrara

1 THE COURT: OK. Let's get the jury.

2 THE DEPUTY CLERK: Jury entering.

3 (jury present)

4 THE COURT: OK. We will now hear rebuttal argument on
5 behalf of the plaintiff.

6 Mr. Ferrara, you may proceed.

7 MR. FERRARA: Thank you, your Honor. Hi, everyone.

8 So, I have been sitting here, listening to
9 Mr. Tacopina, and he is a very good lawyer, but as Judge Kaplan
10 told you, there is a difference between argument and evidence.
11 What we presented to you in this case is evidence and what you
12 just heard, of course, was argument. No one is asking you to
13 find Mr. Trump liable because you don't like him. We are
14 asking you to find him liable based on the evidence you saw and
15 heard in this courtroom, evidence like Ms. Carroll's powerful,
16 credible testimony that Donald Trump sexually assaulted her;
17 Lisa Birnbach and Carol Martin's testimony that Ms. Carroll
18 told them immediately after the incident; Natasha Stoyloff and
19 Jessica Leeds' testimony that Donald Trump did the same thing
20 to them, sexually assaulted them in very, very similar ways;
21 the witnesses who worked at Bergdorf Goodman in the mid-1990s
22 who told you the store was often very quiet on Thursday nights
23 and that Donald Trump shopped there from time to time;
24 Dr. Leslie Lebowitz, who explained the psychology of
25 Ms. Carroll and other trauma victims; and you heard from Donald

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Rebuttal - Mr. Ferrara

1 Trump himself that this is how he treats women, that attacking
2 beautiful women is just something he does and can do,
3 fortunately -- that's his word -- because he is a star.

4 That was the evidence. Evidence that leads to only
5 one conclusion: That Donald Trump sexually assaulted E. Jean
6 Carroll in that dressing room and then he lied about it and
7 defamed her. That's what the evidence showed.

8 You heard Mr. Tacopina say, you know, who can you call
9 as a witness to disprove that something like that happened?
10 And I have an idea for him. It is a little late, but maybe
11 Donald Trump. But he wasn't here. It's funny that
12 Mr. Tacopina started his closing by talking about the justice
13 system and respect for the system when his own client didn't
14 have enough respect to come in to this court during this trial.
15 I guess he had better things to do. He is not president
16 anymore, it is not like he has to meet with heads of state or
17 worry about the situation in Ukraine. He just decided not to
18 be here. He never looked you in the eye and denied raping
19 Ms. Carroll. Never did that.

20 So, the defense, confronted with our evidence and
21 having no witnesses of their own, they made a lot of arguments
22 and those arguments are not supported by any evidence. And we
23 will talk more about this but I'm going to give you an example
24 and it is this idea that Trump needs you to believe that
25 everyone is lying because they're in this grand conspiracy to

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Rebuttal - Mr. Ferrara

1 take him down and there is just no evidence of that. Yeah,
2 many of our witnesses are registered democrats and they have no
3 love for Donald Trump. It's true. That doesn't make them
4 unique and that's not evidence of a conspiracy.

5 Ms. Martin and Ms. Birnbach have built their careers
6 as writers and journalists based on trust that their viewers
7 and readers trust them. They're not going to throw away their
8 reputations and livelihood on some hair-brained scheme to take
9 down Donald Trump. But that's what the defense argued.

10 And in addition to ignoring the evidence, the defense
11 made several arguments which sort of contradict themselves.
12 The way I put it is they want it both ways. And I will explain
13 what I mean and will give you a couple examples. So, let's
14 take an easy one.

15 Trump's team, of course, has to argue that Ms. Carroll
16 is lying that Donald Trump assaulted her. OK. But here is the
17 thing. The defense also actually wants you to believe that
18 Ms. Carroll is telling the truth in all sorts of ways. For
19 instance, the defense wants you to believe that Ms. Carroll is
20 a happy person despite what Trump did to her. Which we told
21 you that. Ms. Carroll did. She told you that herself. She
22 didn't have to say that but she did because it was the truth.
23 The defense wants you to believe that, and you should.

24 The defense also wants you to believe, for example,
25 that other bad things have happened to Ms. Carroll in her life.

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Rebuttal - Mr. Ferrara

1 And again, that's true, and it was Ms. Carroll who told you
2 that herself.

3 So, there are lots of things Ms. Carroll told you that
4 the defense wants you to believe, the things she said that they
5 believed helped their case, but then they turn around and ask
6 you not to believe anything else, like that Trump assaulted
7 her. They want it both ways. We are asking you to credit
8 everything Ms. Carroll said, the good and the bad. The defense
9 is asking you to pick and choose because their argument depends
10 on having it both ways. You should reject that.

11 So, that's one, that's one of the ways that they sort
12 of, they want it both ways, and here is another example and I
13 previewed it a moment ago.

14 So, Mr. Tacopina is asking you to believe that
15 Ms. Carroll, Lisa Birnbach, and Carol Martin hate Donald Trump
16 so much they're willing to lie to you, commit perjury, risk
17 going to jail, risk their reputations and their careers as
18 trusted journalists to drum up some hair-brained scheme to take
19 down Donald Trump. But at the same time he shows you texts in
20 which they're gossiping about one another, they're talking to
21 friends, calling each other names. Which is it? Are they
22 conspirators in a scheme? Or are they gossiping with each
23 other about petty grievances?

24 Let's start with the scheme because there is no
25 evidence of this scheme. The best Trump's team can do is point

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Rebuttal - Mr. Ferrara

1 to an e-mail exchange you have seen between Ms. Carroll and
2 Ms. Martin where Ms. Martin refers to a scheme. And
3 Mr. Tacopina made a lot of that e-mail. He suggested that that
4 one word, from an e-mail Ms. Martin sent back in 2017, proves
5 that these three people got together and hatched a plan to come
6 up with a big lie that would take down a sitting president. So
7 let's look at it, let's look at the e-mail, it is Plaintiff's
8 Exhibit 122.

9 THE COURT: Are you having a problem? Thank you.

10 MR. FERRARA: There it is. Thank you, Mr. Lam.

11 So, Ms. Martin wrote: As soon as we are both well
12 enough to scheme, we must do our patriotic duty again.

13 So the defense argues that the patriotic duty, it is I
14 guess to come up with a lie to destroy Trump. But look at what
15 else Ms. Martin wrote. She wrote: We must do our patriotic
16 duty again. Mr. Tacopina read this about three times and he
17 never read the word "again." Why did she write "again?" Is
18 the defense suggesting that Ms. Carroll and her friends had, on
19 some previous occasion, accused some different president of an
20 assault? Does the defense have some evidence that these women
21 accused Ronald Reagan of rape that they haven't shown us? Of
22 course not. It is silly.

23 We can take that down. Thank you.

24 Ms. Martin told you what the scheme was and it makes
25 total sense. She said the scheme did involve a plan to ensure

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Rebuttal - Mr. Ferrara

1 Donald Trump was never re-elected but not by lying, by getting
2 out the vote, by engaging in public advocacy. Any of the
3 totally legitimate things a voter does to prevent someone they
4 don't support from being elected. That's why she wrote again,
5 because all she was talking about was standard civic
6 engagement.

7 By the way, that e-mail was from 2017, but
8 Mr. Tacopina also argued that Ms. Carroll made this up in 2019
9 for her book and that Ms. Birnbach and Ms. Martin went along
10 with it. So which is it? Was the scheme hatched in 2017 by
11 all three or was it hatched in 2019 and the other two women had
12 to go along? If it makes no sense, it is because it didn't
13 happen that way. This wasn't a conspiracy.

14 Mr. Tacopina also showed you Defendant's Exhibit ER,
15 this is the text in which Ms. Martin says they're celebrating
16 over something that hasn't really happened. You see in the
17 middle: Too much celebratory stuff over something that hasn't
18 really happened. Ms. Martin then continued in this text to
19 talk about the adult victims of rape law. She said: She is
20 going to sue T when adult victims of rape law is passed in New
21 York State.

22 Now, Mr. Tacopina, cross-examined Ms. Martin. He
23 could have asked her what she meant by this but he didn't want
24 the answer because it wasn't good for him. It's clear from
25 this text that Ms. Martin is referring to this adult victims of

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Rebuttal - Mr. Ferrara

1 rape law as this something that hasn't happened. This text is
2 from 2021. You heard earlier about this law which is the Adult
3 Survivors Act. Ms. Carroll testified about it and Judge Kaplan
4 explained it in his preliminary instructions at page 18 of the
5 transcript.

6 The law was passed in 2022 after Ms. Martin wrote this
7 text. Ms. Martin is saying Ms. Carroll is celebrating
8 something that might not happen, meaning the passage of the
9 law. And you heard that the law in fact later was passed and
10 Ms. Carroll did bring this lawsuit under that new law. That's
11 all that was. A friend gossiping about silliness. That's it.
12 It's boring. There is no scheme.

13 By the way, I will also mention that the timing of the
14 defense's sort of silly theory doesn't work at all. According
15 to them, Ms. Carroll published her account of Donald Trump to
16 take him down as president. Now, you recall Ms. Carroll
17 published that account online and in her book in June of 2019.
18 Mr. Trump was already president then. He had been elected in
19 November of 2016. Mr. Trump was elected after the *Access*
20 *Hollywood* video came out, that came out earlier in 2016. He
21 was elected after Natasha Stoyneff and Jessica Leeds had come
22 forward with their own accusations against him. They came
23 forward in October of 2016 before Election Day. So why is this
24 important? It is important because when America voted for
25 Donald Trump, we all knew how he treated women. By Election

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Rebuttal - Mr. Ferrara

1 Day of 2016, two women had spoken publicly about Trump
2 assaulting them -- Ms. Leeds and Ms. Stoyloff, and the *Access*
3 *Hollywood* tape had aired in which Trump admitted to grabbing
4 women by the you-know-what. That was all out there and America
5 voted for him anyway. So there was no way that Ms. Carroll,
6 Ms. Martin, and Ms. Birnbach would have ever thought that
7 another assault accusation over two years later was going to
8 have any effect whatsoever on whether Trump was re-elected. It
9 is dumb. The defense's made up conspiracy is just wrong.

10 Oh. Sorry. Don't let me forget. According to the
11 defense, these women were so stupid that they stole the idea
12 for their scheme from the plot of a Law & Order SVU episode.

13 This is Defendant's Exhibit CK which Mr. Tacopina
14 showed you. And then, Mr. Tacopina argues that, you know,
15 Ms. Carroll admitted when she testified she was aware of the
16 show. Yes. Yes, she was aware of the show -- from this
17 e-mail. The e-mail she received after she had already come
18 forward about Trump in her book. What does Ms. Carroll say in
19 response to the person alerting her to the SVU episode? She
20 says: I haven't seen it. Which is exactly what she testified
21 to on the stand.

22 And do you know where this e-mail came from? From
23 Ms. Carroll. If she was willing to commit a crime by lying
24 under oath and bringing a false lawsuit against Trump she would
25 also be willing to delete this e-mail. If this was a

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Rebuttal - Mr. Ferrara

1 conspiracy, she wouldn't keep it and then give it to her
2 accuser to help, an e-mail that he says exposes the whole
3 thing. Never. But this isn't a conspiracy and Ms. Carroll
4 turned over this e-mail because it is meaningless to her and
5 proves nothing.

6 Mr. Tacopina told you, wrongly, that my colleague,
7 Ms. Kaplan, had taken liberties with the transcript. That's
8 funny, because Mr. Tacopina repeatedly cherry-picked lines of
9 testimony he thought helped him without giving you the
10 surrounding context, and he did it on this topic, among others
11 which I will come to later, because he wants you to believe
12 some of her testimony but not the rest.

13 So, he showed you the question and answer where
14 Ms. Carroll said she was aware of the episode but he didn't
15 show you the rest of it so let me do that now. This is page
16 626 of the transcript of Ms. Carroll's testimony.

17 Do you recall the questions?

18 "A Yes.

19 "Q Have you ever seen that episode?

20 "A Never.

21 "Q Had you ever seen it or heard of it before you wrote your
22 book?

23 "A Never.

24 "Q Sitting here today, do you have any idea what actually
25 happens in that episode of television?

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Rebuttal - Mr. Ferrara

1 "A No.

2 "Q Are you making up your accusation based on what happened in
3 a popular TV show?

4 "A No. No."

5 Let's step back.

6 We can take this down. Thank you, Mr. Lam.

7 Let's step back for one minute. The Trump team's
8 theory is that Ms. Carroll, Ms. Martin, and Ms. Birnbach, three
9 intelligent, successful people, modeled their secret-secret
10 scheme on an episode of one of the most popular shows on
11 television because, yeah, why not model your big conspiracy on
12 an episode of television that 6 million people have seen. Who
13 is going to notice other than those 6 million people? It makes
14 no sense. Put aside -- put aside -- how silly it is on its
15 face if these three people were going to make up an accusation.
16 This is the best they could do? If these three women were
17 going to make up a lie, why would they say the assault happened
18 in a department store? They could make up a more private place
19 than that. They could agree on a more specific time period.
20 They could say that E. Jean screamed, not that she laughed.
21 But they didn't say those things to you because that's not the
22 truth. What they told you was the truth, good or bad. This
23 isn't a conspiracy to take down Donald Trump, it is evidence of
24 what actually happened, that Donald Trump assaulted
25 Ms. Carroll.

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Rebuttal - Mr. Ferrara

1 But I was telling you how the defense wants it both
2 ways and so they want you to believe that these three people
3 are in this conspiracy but at the same time Mr. Tacopina showed
4 Carol Martin all those texts where Ms. Martin said some mean
5 things about Ms. Carroll and you remember them, Mr. Tacopina
6 went over them. Ms. Martin called Ms. Carroll narcissistic, a
7 little scary. She wrote that Ms. Carroll's lawsuit had gone to
8 another level that she had she couldn't relate, she was just
9 not there for it. You saw it.

10 So, the question is if Ms. Martin was in a secret
11 scheme with Ms. Carroll, why in the world is she complaining to
12 random friends about it? Which is it? Are they in grand
13 scheme to take down the president, or is Ms. Martin gossiping
14 to friend and calling E. Jean names? The defense argument
15 doesn't pass the smell test.

16 Or, remember what Lisa Birnbach told you. She said
17 that after Ms. Carroll told her about the assault she never
18 checked in with Ms. Carroll about it. She worked not to think
19 about it. It is weird, right? It is weird that Ms. Carroll
20 told her friend she had been raped and her friend never asked
21 about it again for 20 years. The truth is often weird. But
22 here is my point: No one lies like this. If Ms. Birnbach was
23 in a conspiracy with Ms. Carroll and was willing to commit
24 perjury and lie to you, she would tell you she thought about
25 the assault often. She would tell you that she frequently

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Rebuttal - Mr. Ferrara

1 asked Ms. Carroll if she was OK, that they had discussed it on
2 election night, because that's easier to understand and who
3 could prove her wrong? But what you heard was a witness --
4 Lisa Birnbach -- being completely honest with you, even when it
5 opened her up to difficult questions by the defense. She told
6 you the truth, not what she thought you wanted to hear. And,
7 you know the truth. Ms. Carroll was sexually assaulted by
8 Donald Trump and immediately told her good friends Lisa and
9 Carol.

10 When Ms. Carroll eventually came forward, Ms. Martin
11 was upset that she had to be deposed, that she had to testify
12 and turn over her private texts and e-mails, that she had to
13 fear for her safety. And so, like we have all done,
14 Ms. Martin, texting privately with her other friends, said some
15 unkind things about Ms. Carroll. We have all been there, we
16 have all been on both sides of that.

17 But here is another problem with the defense argument.
18 If Ms. Martin was scheming to help her friend file a lawsuit
19 against Donald Trump, she would know she was going to have to
20 turn over those texts and e-mails. These women aren't stupid.
21 She would know the end game was a lawsuit and they know that
22 would mean they would have to produce their communications.
23 Ms. Martin wouldn't have written those texts if she was
24 conspiring to help her friend file a lawsuit. And, if she was
25 willing to commit perjury, well then she would be willing to

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Rebuttal - Mr. Ferrara

1 delete the texts before ever giving them anyway. She didn't do
2 those things because this isn't a conspiracy. Ms. Martin --
3 she didn't want to be here but she came and testified because
4 it was the truth and she believed it was the right thing to do.

5 Last point on this. In all of those private texts you
6 saw there wasn't a single one in which Ms. Martin or
7 Ms. Birnbach ever questioned that Donald Trump had assaulted
8 Ms. Carroll because that's the truth. Ms. Martin said she
9 produced years' worth of texts -- that's at 1046 -- years'
10 worth, and not one of them did Ms. Martin ever question whether
11 Trump assaulted Ms. Carroll because she knew the answer to that
12 question and so do you. It happened. Donald Trump did it.

13 So, OK, let's talk about how else the defense wants it
14 both ways and this is also something I briefly touched on
15 earlier.

16 So, Mr. Trump publicly denied raping Ms. Carroll. And
17 of course that's part of the defense argument, that Ms. Carroll
18 made all of this up and it never happened. OK. But if that's
19 Trump's defense, why did Mr. Tacopina ask all those questions
20 about whether Ms. Carroll screamed, about whether she was
21 laughing, about whether she willingly went into the dressing
22 room with Mr. Trump? Those questions are about whether
23 Ms. Carroll consented to what Trump did to her. And
24 Mr. Tacopina agreed that this isn't a case about consent, that
25 consent is not their defense. So then why does it matter? If

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Rebuttal - Mr. Ferrara

1 consent is not the defense, why does it matter if she screamed?
2 Why does it matter if she laughed? Why does it matter? She
3 walked into the dressing room first. I thought Trump said he
4 was never there and he had no idea who this woman was.

5 Those questions were a distraction. As Mr. Tacopina
6 agreed, consent is not the defense. Donald Trump claimed this
7 never happened, he had no idea who this woman is. He doesn't
8 go to Bergdorf's. That's what he said. And those denials were
9 lies.

10 You are not being asked anything about consent. You
11 are being asked to decide whether an assault happened at all
12 and you know the answer to that. It did. And I really can't
13 stress this enough: If you find yourselves in the jury room
14 talking about whether Ms. Carroll consented, then she wins,
15 because it means you have concluded she was in that dressing
16 room with Donald Trump's hands on her. This is not a case
17 about consent. But, the defense wants it both ways, they want
18 to argue that it never happened but then ask questions
19 suggesting that if it did, Ms. Carroll consented. And it
20 doesn't work. It just doesn't work.

21 I'm sorry, but if their defenses conflict with each
22 other, that means they have no defense and you should reject
23 their efforts to throw everything at the wall and see what
24 sticks. None of it sticks because Donald Trump was in that
25 store with Ms. Carroll that day and he assaulted her and then

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Rebuttal - Mr. Ferrara

1 he lied about it and defamed her. They didn't put on a defense
2 case because they don't have a defense. And that actually
3 leads me to another example of how the defense wants it both
4 ways.

5 Mr. Tacopina argues that we haven't carried our burden
6 of prove in this trial. And he is of course correct, it is our
7 burden. It is our burden of proof, we embrace that burden.
8 And, we have carried it. We have to prove it is more likely
9 than not that Trump assaulted Ms. Carroll.

10 Remember, as everyone agrees, right, this is not a
11 criminal case, the standard is not beyond a reasonable doubt,
12 and we have proven, by overwhelming evidence, that that assault
13 occurred. We are not worried about 51 percent but that's the
14 standard, so he told it to you accurately. And the question --
15 you are going to render a verdict based only on the evidence
16 you have seen in this courtroom. Only on the evidence in this
17 courtroom. You are going to be asked to decide whose version
18 of events is more likely. So think of it like a scale, right?
19 And the scale is balanced when the evidence on each side is
20 exactly the same and the question here is whether the side of
21 the scale with our evidence is heavier than the side of the
22 scale with the defense evidence. And the defense says no.
23 They say, no, it's not. But they're totally wrong because, as
24 you know, they didn't call any witnesses, not a single one, and
25 yet --

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Rebuttal - Mr. Ferrara

1 MR. TACOPINA: Judge, that's objectionable. Scales
2 are based on witness -- quantity of witnesses.

3 THE COURT: That's enough. Thank you.

4 Members of the jury I will instruct you.
5 Preponderance of the evidence refers, as has been said, to the
6 preponderance of the credible evidence. It means which side is
7 more likely right and that doesn't depend on who called how
8 many witnesses or put in what documents.

9 Go ahead.

10 MR. FERRARA: Mr. Tacopina argued that the defense
11 couldn't find any witnesses or evidence because Ms. Carroll
12 wasn't specific about the date. Remember this? That
13 Ms. Carroll is deliberately being vague about the date the
14 assault occurred because she doesn't want Trump to be able to
15 find any witnesses or evidence and he talked about not being
16 able to prove a negative or disprove that the assault happened?

17 Well, first things first. The reason they can't
18 disprove it is because it happened. OK? It's true. Trump
19 assaulted Ms. Carroll. And if it wasn't true, they would have
20 been able to find evidence that it wasn't true. And because it
21 is true, we were able to find evidence from that period of time
22 all of which backs up Ms. Carroll's testimony every step of the
23 way.

24 So, for example, Ms. Carroll said she had met Trump.
25 He said they hadn't. We have a photo from that period of time

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Rebuttal - Mr. Ferrara

1 showing the two of them speaking. That's Plaintiff's Exhibit
2 12, the photo where Trump mistook Ms. Carroll for Marla Maples,
3 his second wife.

4 Trump also said he never went to Bergdorf's. Well, we
5 found two people who worked at Bergdorf Goodman during that
6 period of time, Cheryl Beall and Robert Salerno. Mr. Salerno
7 remembers seeing Trump in the store and Ms. Beall remembers
8 seeing him right outside. So, that's one reason you should
9 reject Mr. Tacopina's argument that they couldn't find any
10 evidence. Because we did. We found evidence from that time
11 period and we showed it to you at this trial.

12 But there is a second, even simpler reason why the
13 Trump team is wrong when they argued that they couldn't find
14 evidence or witnesses. There were two people in that dressing
15 room back in 1996, Ms. Carroll and Mr. Trump. One of them
16 testified, one of them didn't. The defense didn't call
17 Mr. Trump to testify and you should conclude it is because he
18 would have hurt their case if he had. And that brings me to my
19 final example of how the defense wants it both ways.

20 They argue that Ms. Carroll lied when she testified to
21 you. Mr. Tacopina mentioned points he made on
22 cross-examination to try to argue that Ms. Carroll lied. You
23 saw her testify and you can tell from her demeanor and her
24 answers and all the other evidence that she was telling the
25 truth, but it's ironic that Mr. Tacopina points to his

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Rebuttal - Mr. Ferrara

1 cross-examination of Ms. Carroll as evidence that she lied
2 because Mr. Tacopina's client, Donald Trump, never took the
3 witness stand at all. He didn't even show up in court. And in
4 his attempt to make an excuse for his client's decision not to
5 attend this trial, Mr. Tacopina pointed out that Mr. Trump was
6 deposed. And you saw that. You also saw that Ms. Carroll was
7 deposed, twice, by some of the same lawyers in this courtroom.

8 Mr. Tacopina claims that it was enough that Trump was
9 deposed once over seven months ago. But then why wasn't it
10 enough that Ms. Carroll was also asked questions at her
11 deposition? Why did Mr. Tacopina have to spend nearly two full
12 days asking her questions during this trial if her deposition
13 was enough? Because that's not how this works.

14 Respect for the justice system. It was Ms. Carroll
15 who respected the justice system enough to walk into this
16 courtroom, swear an oath, look all of you in the eye, and
17 subject herself to two days of cross-examination. Donald Trump
18 did not do that. He could not do that.

19 Mr. Tacopina said to you minutes ago that you need
20 cross examination in your search for the truth. And we
21 couldn't agree more. What does that tell you? What does your
22 common sense tell you? If someone accused you of rape and you
23 didn't do it, you would run to the courtroom, look the jurors
24 in the eye, and tell them it never happened. Mr. Trump didn't
25 do that. Ms. Carroll was here every day, testified for over

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Rebuttal - Mr. Ferrara

1 two days, hour after hour of cross-examination. Not Trump.
2 Didn't want to answer our questions.

3 Mr. Tacopina criticizes Ms. Carroll's testimony
4 because she showed up, she swore an oath, and told you what
5 happened, and meanwhile, Donald Trump was nowhere to be found;
6 didn't come into the courtroom, didn't take the witness stand.
7 And you should draw the conclusion that that's because he did
8 it, because he raped Ms. Carroll and he didn't want to testify
9 about it.

10 Now, I mentioned that Mr. Tacopina has, at times,
11 cherry-picked portions of the transcript to show you throughout
12 his summation and I gave you one example and I want to come
13 back to a couple more.

14 Again, he is a good lawyer, he has the transcript, and
15 he showed it to you when it suited him to do that but he, at
16 times, did not give you the full context because it would hurt
17 his case to show you that so I will do it.

18 He put up a slide with a line of testimony from page
19 605 of Ms. Carroll's testimony. Here is what he showed you.
20 Ms. Carroll saying I never had sex again but I think it wasn't
21 because of him. Here is what he left out, let's add in the
22 rest of it.

23 And then, he also didn't show you the rest of the
24 context Ms. Carroll gave on page 625.

25 Do we have that, Mr. Lam, too?

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Rebuttal - Mr. Ferrara

1 *Here is the thing. I was killing my own luck. She*
2 *testified. I was getting in the way of my own luck. I made*
3 *sure I wasn't lucky. I just made sure I didn't meet a person*
4 *because I didn't allow myself to flirt or smile at a possible*
5 *romantic partner. That was the context.*

6 Another example --

7 We can take that down. Thank you, sir.

8 Another example of cherry-picking had to do with the
9 testimony of Dr. Lebowitz. Now, Mr. Tacopina spent a lot of
10 time on Dr. Lebowitz and he made this point about how, if
11 Ms. Carroll had lied to Dr. Lebowitz, then it sort of just goes
12 into the report. He used this phrase: Garbage in, garbage
13 out. Remember that? But, again, he cherry-picked this too
14 because, as my colleague Ms. Kaplan explained earlier,
15 Dr. Lebowitz testified that she believed Ms. Carroll. A
16 licensed, clinical psychologist with a speciality in trauma
17 who, for years, has treated members of the military who suffer
18 trauma, that clinical expert believes Ms. Carroll. And that's
19 at page 896, Ms. Kaplan showed it to you. The defense asked
20 her that but Mr. Tacopina didn't show you that part.

21 Mr. Tacopina also cherry-picked and misrepresented the
22 evidence when he was talking about this guy George Conway.
23 Mr. Tacopina called Mr. Conway a democratic party lawyer and he
24 showed you one question of Ms. Carroll's testimony so let me
25 show you the rest. It is page 315 of the transcript.

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Rebuttal - Mr. Ferrara

1 I am really putting Mr. Lam through the paces. Thank
2 you, sir.

3 Ms. Carroll told you on direct examination -- not
4 cross, on direct examination -- that a conversation with George
5 Connolly crystallized the idea of a lawsuit. It is down
6 towards the bottom. And then I asked:

7 Who is George Conway?

8 And even then she said: George Conway is a republican
9 lawyer.

10 Not a democrat, a republican lawyer. And yes, the
11 evidence showed that Conway is no fan of Donald Trump because
12 you don't have to be a democrat to dislike that guy.

13 You can take that down. Thank you.

14 Almost every time he showed you testimony it was out
15 of context. Those are just a few examples. But you should
16 scrutinize carefully everything he said to you.

17 So, pointing out something else, Mr. Tacopina was very
18 fired up about the fact that Ms. Carroll told you that Donald
19 Trump assaulted her on a Thursday. He mentioned repeatedly
20 that she hadn't said that the -- had never before said that the
21 assault happened on a Thursday and that's true. She freely
22 admitted that to you when she was on direct examination, it is
23 at page 166 of the transcript. And let's be clear,
24 Ms. Carroll, to this day, isn't sure it happened on a Thursday.
25 That's her best recollection and it makes sense to her but

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Rebuttal - Mr. Ferrara

1 she's the first to admit she really isn't sure. But I am
2 surprised that Mr. Tacopina made such a big deal of this in
3 both his opening and his closing. It's no secret that
4 Ms. Carroll can't pin down the date this happened. She told
5 you she wishes she could. She understandably has been asked
6 when it happened over and over in interviews and in this
7 courtroom. So, is it any wonder that she obsessively racks her
8 brain every day for any and every honest detail she has in her
9 memory about what happened, about when this happened? That she
10 never gives up trying to remember that? Of course not.

11 And that's what you saw on the witness stand, a woman
12 trying her best to tell you what she remembered and what she
13 didn't. She shouldn't be criticized for that.

14 Ms. Kaplan walked you through the timing so I'm not
15 going to belabor it but just briefly, Ms. Carroll remembers the
16 assault happened in fall of '95 or spring of '96. When you add
17 in the detail about Lisa Birnbach interviewing Donald Trump in
18 early 1996, it made sense that it was the spring of '96, both
19 because Ms. Birnbach wouldn't have interviewed Trump had she
20 just been told that he had raped her friend, and also because
21 it makes sense that Ms. Carroll called Ms. Birnbach because
22 Ms. Carroll was thinking about how Ms. Birnbach had just
23 interviewed Trump. So that all makes sense. And then you
24 factor in that Ms. Carroll going to Bergdorf's after she
25 finished her show and the time of day she called Ms. Birnbach,

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Rebuttal - Mr. Ferrara

1 which was around 6:00 or 7:00 at night and it made sense it was
2 the night that the store stayed open late: Thursday. That's
3 it. No big deal. It is not lies, it is just common sense and
4 best efforts to remember.

5 Mr. Tacopina also argued that Ms. Carroll is lying to
6 sell her book and that the lawsuit is a money grab. Well,
7 that's totally wrong and look, first, again, my partner
8 Ms. Kaplan spoke to you for 90 minutes earlier and she never
9 asked you once to award Ms. Carroll some ridiculous amount of
10 money and I'm not going to do that either.

11 Second, Ms. Carroll told you that this lawsuit isn't
12 about the money. I asked her if she's hoping for a large
13 payout from this case and she answered "it's not about the
14 money, it's about getting my name back." That's at page 316 of
15 the transcript. If Ms. Carroll is hoping for a huge payday,
16 why would she tell you, the jury that will decide the issue,
17 that it isn't about the money? She wouldn't. What she told
18 you is the truth. This lawsuit is about far more than money to
19 her, it is about getting her life back.

20 And the book? I mean, Ms. Carroll told you the book
21 was a dud and didn't sell but remember the evidence about how
22 Ms. Carroll published the Trump chapter from the book? That
23 chapter about Trump and a few other chapters were published
24 online by New York magazine. Right? So, in other words,
25 Ms. Carroll gave away, for free, online, the chapter about

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Rebuttal - Mr. Ferrara

1 Trump. She wouldn't have done that if she was making up a
2 story to get people to buy her book. This is not a money grab.

3 The defense also argued that Ms. Carroll is lying
4 about whether Ms. Martin and Ms. Birnbach read the book excerpt
5 about Trump. And I guess his point there was that they're
6 lying about having read the book because they've secretly read
7 it and they got their stories straight to coordinate their
8 accounts. I apologize, I honestly did not completely follow
9 this one, but I -- but the book was published, period. The
10 excerpt was online. Ms. Carroll, Ms. Martin, and Ms. Birnbach
11 all told you they did an interview together for the New York
12 Times. No one is saying to you that they had not heard each
13 others' accounts before they testified here. No one is saying
14 that. They told you that. So, I don't understand the argument
15 about did they read the excerpt? Did they not? They told you
16 about sitting with one another for an interview.

17 This goes to what I was sort of saying earlier about
18 if they were going to lie, wouldn't they lie better than this?
19 I mean, it goes back to that idea but, similarly, if they
20 wanted to get their story straight, which I think is what
21 Mr. Tacopina is suggesting I think he is saying, they wanted to
22 get their story straight, but they also could have done that a
23 lot better because there are little inconsistencies throughout
24 their testimony that shows you they didn't coordinate with each
25 other, they're just doing their best to remember a conversation

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Rebuttal - Mr. Ferrara

1 from a long time ago and I will give you a couple examples.

2 So, the night Ms. Carroll told Ms. Martin about the
3 assault, Ms. Martin told you that Ms. Carroll had the idea of
4 going to Ms. Martin's house to talk but Ms. Carroll remembers
5 it the other way, that Ms. Martin proposed going to her home.
6 And so, you can compare the pages of the transcript at 190 and
7 1026. That's just one example.

8 How about Ms. Birnbach. As you remember, Ms. Carroll
9 testified that Trump penetrated her both with his fingers and
10 his penis. But when Ms. Birnbach described what Ms. Carroll
11 had told her back in 1996, she didn't say anything about
12 Trump's fingers, and that's page 636 and 690.

13 There are other examples but you get the idea. This
14 isn't how people testify when they have concocted a story and
15 have a script. What the witnesses told you was the truth:
16 That Donald Trump had assaulted Ms. Carroll who then told her
17 friends what had happened.

18 So, let's talk about the *Access Hollywood* tape. I'm
19 not going to play it again. Mr. Tacopina repeated what
20 Mr. Trump said in his deposition, was that it was locker room
21 talk. But you know what Trump didn't do? He didn't say it
22 wasn't true. Trump said it is locker room talk but he didn't
23 say what I said there isn't true. So I have a different term
24 for what Mr. Trump said on that video: It was a confession.
25 Ms. Kaplan already walked you through the tape so, again, I'm

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Rebuttal - Mr. Ferrara

1 not going to play it again, but the idea that this is locker
2 room talk is absurd and even Trump doesn't deny it was true.

3 So first off, look. I have been in a lot of locker
4 rooms and I have never heard anyone talk about furniture
5 shopping. And I'm not trying to be cute here, there is a
6 point. Locker room talk can be crude. OK. I get it. Things
7 you wouldn't say in front of your mom or your boss. Fine.
8 Whatever. That's not what this was. Let's look at the
9 transcript.

10 Let's put up 25-T, Mr. Lam, if you could.

11 So let's pull up, up top, the big quote by Donald
12 Trump where he mentioned: No, no, Nancy. Yes.

13 He says: I took her out furniture shopping. She
14 wanted to get some furniture. I said, I'll show you where they
15 have some nice furniture. I moved on her like a b-i-t-c-h but
16 I couldn't get there.

17 All right? Trump was describing a specific incident
18 in which he took a woman shopping and moved on her. Does that
19 sound familiar? Is that not exactly what happened with
20 Ms. Carroll? They were shopping and then he moved on her.
21 Trump never denied this.

22 And then he describes how he just kisses women, he
23 doesn't wait, grabs them by their genitals. You get it.

24 We can take that down. Thank you, Mr. Lam.

25 Your common sense and experience tells you that's not

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Rebuttal - Mr. Ferrara

1 locker room talk but you know from the evidence in this case
2 that it's definitely not locker room talk when Donald Trump
3 says it because you heard from three witnesses who said he did
4 exactly that: Ms. Carroll, Jessica Leeds, and Natasha
5 Stoyneff. They all described Trump grabbing them and kissing
6 them without warning. And he didn't deny what he said.

7 So, one last thing on this. The *Access Hollywood*
8 video is from 2005. The recording is from 2005 and it became
9 public in 2016. 2005, the year Trump talked about grabbing
10 women by their genitals, that was the same year he assaulted
11 Natasha Stoyneff. That video is a confession.

12 Now, the defense spent some time talking about how
13 Ms. Carroll had said she's fine, or great, or fabulous, on many
14 occasions since the assault. Ms. Kaplan talked about this, how
15 Ms. Carroll minimizes difficulties. And you heard testimony
16 from Dr. Lebowitz and Ms. Carroll's sister Cande explaining why
17 Ms. Carroll does that, why she has such a hard time checking in
18 deeply with her own emotions. But I also will admit I just
19 don't get the argument. Is the defense saying that because
20 Ms. Carroll was raped she could never be happy again? That she
21 can never shop in Bergdorf Goodman's again? That can't be the
22 argument, right? If I get mugged outside of my office, am I
23 supposed to never go to work again because it is too
24 triggering? If a loved one passes away and you manage to get
25 on with your life and find happiness again, does that mean you

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Rebuttal - Mr. Ferrara

1 didn't care about the person you lost? Of course not. And
2 Dr. Lebowitz explained this to you too. She told you that
3 Ms. Carroll doesn't blame Bergdorf's. It wasn't the store that
4 assaulted her, it was Donald Trump. That's at page 883 of the
5 transcript. Or, the point about having, you know, kept the
6 dress she was wearing when Trump assaulted her. This is
7 something Ms. Carroll told you herself. If she is going to
8 lie, why not say she destroyed the dress? Why not say I
9 destroyed it, I don't have it anymore. Who could ever prove
10 her wrong? Because she told you the truth, good or bad. She
11 kept the dress because it was beautiful and it was her nicest
12 dress, and Dr. Lebowitz explained that.

13 Or how about watching *The Apprentice*? Dr. Lebowitz
14 explained the reaction Ms. Carroll had when Ms. Carroll first
15 saw the trailer for *The Apprentice*. You guys remember this?
16 Ms. Carroll was sitting in a meeting and someone showed the
17 trailer for *The Apprentice* and Ms. Carroll completely froze and
18 couldn't speak. This is at page 884 of the transcript. But at
19 the same time, as Dr. Lebowitz told you, *The Apprentice* was a
20 show that everyone in Ms. Carroll's social circle was watching
21 at that time and if she hadn't, she would have sort of stood
22 out.

23 I think the point is that Ms. Carroll is entitled to
24 find happiness again in her life, to focus on the positive
25 things in life and work to be the happiest, best version of

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1 herself, and it feels like the defense has this idea of the
2 perfect rape victim and in their version it goes something like
3 this: The perfect rape victim doesn't flirt. The perfect rape
4 victim screams. The perfect rape victim never goes back to
5 where they were raped. The perfect rape victim tells the
6 police but otherwise never discusses the rape publicly. The
7 perfect rape victim burns whatever clothes they were wearing.
8 The perfect rape victim never laughs again, never jokes around.
9 The perfect rape victim never again has success in their
10 career. The perfect rape victim never looks at their rapist
11 again. The perfect rape victim never tries to hold their
12 rapist accountable, never gets their day in court. And, the
13 perfect rape victim is never happy again.

14 That's the defense's out-of-date, out-of-touch view.
15 It is as wrong as it is offensive. Dr. Lebowitz explained to
16 you why it is wrong. For example, she talked about victims who
17 don't scream, even if they're being raped in the stacks of the
18 public library. That's at page 857 of the transcript. But you
19 also know it is wrong because you heard from three victims of
20 sexual assault in this case, three of Donald Trump's victims
21 and they told you the same thing. Ms. Carroll couldn't process
22 what was happening and was extremely confused when Trump
23 attacked her. That's what she told you, that's at page 177.
24 Jessica Leeds told you that when Trump started groping her on
25 the airplane she didn't scream or shout and to this day she

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1 still doesn't know why. That's at 742. And Natasha Stoyneff,
2 the *People* magazine writer, described how after Trump assaulted
3 her at Mar-a-Lago, she went into auto-pilot, as she put it, and
4 finished the interview with Trump and his wife Melania. That's
5 at 993.

6 Three women, all assaulted by Trump, none of them
7 screamed, none of them discussed it with their employers, none
8 of them wanted to be fired or sued. All of them went on with
9 their lives and careers and found happiness despite what
10 happened to them. And because they did, the defense wants you
11 to believe they were never assaulted. But, you know Donald
12 Trump assaulted every one of them. They told you that and he
13 told you that when he described how he treats women on the
14 *Access Hollywood* tape.

15 THE COURT: Let's try to wrap it up in the next five
16 minutes.

17 MR. FERRARA: Yes, sir. I have one minute and a half,
18 your Honor.

19 THE COURT: OK.

20 MR. FERRARA: The long and short of it is this, ladies
21 and gentlemen: Donald Trump's entire defense rests on calling
22 everyone a liar. He needs you to believe Ms. Carroll is a
23 liar; Lisa Birnbach, Carol Martin, liars. Natasha Stoyneff and
24 Jessica Leeds, he has to call them liars. Even Robert Salerno
25 and Cheryl Beall, I guess they're lying, too, when they talk

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1 about seeing Trump in or near the store. All of them
2 apparently willing to break the law and risk ruining their
3 lives to bring down Donald Trump. Trump even needs you to
4 believe he was lying on the *Access Hollywood* tape.

5 Each of our witnesses took the stand and swore an oath
6 to tell the truth. Their testimony is consistent and it is
7 overwhelming. And the guy calling them a liar is the only one
8 of them who didn't testify, who couldn't swear an oath in this
9 courtroom without admitting he assaulted Ms. Carroll. This was
10 never going to be a "he said, she said" case, we had too many
11 witnesses for that. But now, at the end of this trial, we see
12 there wasn't even "he said," because Donald Trump never looked
13 you in the eye and denied it. Find him liable for assaulting
14 and defaming E. Jean Carroll.

15 Thank you.

16 THE COURT: Thank you, Mr. Ferrara.

17 Ladies and gentlemen, 10:00 tomorrow morning. I will
18 give you my instructions and you will get the case.

19 Don't talk about it, don't read or listen to anything
20 about it. Thank you.

21 Counsel remain, please.

22 (Jury not present)

23 THE COURT: Be seated, folks, please.

24 Now, was there something else that somebody wanted to
25 bring up? Or not. Are we clear?

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1 MS. KAPLAN: Not from our side, your Honor.

2 THE COURT: Mr. Tacopina?

3 MR. TACOPINA: No, your Honor.

4 THE COURT: OK. See you tomorrow morning.

5 (Adjourned to May 9, 2023, at 10:00 a.m.)

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